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IN THE

Supreme Court of the United States

October Term, 1952
No. 10 Original.

STATE OF ARIZONA,

Complainant,

vs.

STATE OF CALIFORNIA, PALO VERDE IRRIGATION DISTRICT, IMPERIAL IRRIGATION DISTRICT, COACHELLA VALLEY COUNTY WATER DISTRICT, METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, CITY OF LOS ANGELES, CALIFORNIA, CITY OF SAN DIEGO, CALIFORNIA, and COUNTY OF SAN DIEGO, CALIFORNIA,

Defendants.

APPENDIXES TO THE ANSWER.

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APPENDIX NO. 1

THE COLORADO RIVER COMPACT

(Text)

November 24, 1922

The States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, having resolved to enter into a compact under the Act of Congress of the United States of America approved August 19, 1921 (42 Statutes at Large, Page 171), and the Acts of the Legislatures of the said States, have through their Governors appointed as their Commissioners:

W. S. Norviel	for the State of Arizona
W. F. McClure	for the State of California
Delph E. Carpenter	for the State of Colorado
J. G. Scrugham	for the State of Nevada
Stephen B. Davis, Jr.	for the State of New Mexico
R. E. Caldwell	for the State of Utah
Frank C. Emerson	for the State of Wyoming

who, after negotiations participated in by Herbert Hoover appointed by The President as the representative of the United States of America, have agreed upon the following articles:

ARTICLE I

The major purposes of this compact are to provide for the equitable division and apportionment of the use of the waters of the Colorado River System; to establish the relative importance of different beneficial uses of water; to promote interstate comity; to remove causes of present and future controversies; and to secure the expeditious agricultural and industrial development of the Colorado River Basin, the storage of its waters and the

protection of life and property from floods. To these ends the Colorado River Basin is divided into two Basins, and an apportionment of the use of part of the water of the Colorado River System is made to each of them with the provision that further equitable apportionments may be made.

ARTICLE II

As used in this compact:—

(a) The term "Colorado River System" means that portion of the Colorado River and its tributaries within the United States of America.

(b) The term "Colorado River Basin" means all of the drainage area of the Colorado River System and all other territory within the United States of America to which the waters of the Colorado River System shall be beneficially applied.

(c) The term "States of the Upper Division" means the States of Colorado, New Mexico, Utah and Wyoming.

(d) The term "States of the Lower Division" means the States of Arizona, California and Nevada.

(e) The term "Lee Ferry" means a point in the main stream of the Colorado River one mile below the mouth of the Paria River.

(f) The term "Upper Basin" means those parts of the States of Arizona, Colorado, New Mexico, Utah and Wyoming within and from which waters naturally drain into the Colorado River System above Lee Ferry, and also all parts of said States located without the drainage area of the Colorado River System which are now or shall hereafter be beneficially served by waters diverted from the System above Lee Ferry.

(g) The term "Lower Basin" means those parts of the States of Arizona, California, Nevada, New Mexico and Utah within and from which waters naturally drain into the Colorado River System below Lee Ferry, and also all parts of said States located without the drainage area of the Colorado River System which are now or shall hereafter be beneficially served by waters diverted from the System below Lee Ferry.

(h) The term "domestic use" shall include the use of water for household, stock, municipal, mining, milling, industrial and other like purposes, but shall exclude the generation of electrical power.

ARTICLE III

(a) There is hereby apportioned from the Colorado River System in perpetuity to the Upper Basin and to the Lower Basin respectively the exclusive beneficial consumptive use of 7,500,000 acre feet of water per annum, which shall include all water necessary for the supply of any rights which may now exist.

(b) In addition to the apportionment in paragraph (a), the Lower Basin is hereby given the right to increase its beneficial consumptive use of such waters by one million acre feet per annum.

(c) If, as a matter of international comity, the United States of America shall hereafter recognize in the United States of Mexico any right to the use of any waters of the Colorado River System, such waters shall be supplied first from the waters which are surplus over and above the aggregate of the quantities specified in paragraphs (a) and (b); and if such surplus shall prove insufficient for this purpose, then, the burden of such deficiency shall be equally borne by the Upper Basin and the Lower Basin,

and whenever necessary the States of the Upper Division shall deliver at Lee Ferry water to supply one-half of the deficiency so recognized in addition to that provided in paragraph (d).

(d) The States of the Upper Division will not cause the flow of the river at Lee Ferry to be depleted below an aggrgate of 75,000,000 acre feet for any period of ten consecutive years reckoned in continuing progressive series beginning with the first day of October next succeeding the ratification of this compact.

(e) The States of the Upper Division shall not withhold water, and the States of the Lower Division shall not require the delivery of water, which cannot reasonably be applied to domestic and agricultural uses.

(f) Further equitable apportionment of the beneficial uses of the waters of the Colorado River System unapportioned by paragraphs (a), (b) and (c) may be made in the manner provided in paragraph (g) at any time after October first, 1963, if and when either Basin shall have reached its total beneficial consumptive use as set out in paragraphs (a) and (b).

(g) In the event of a desire for a further apportionment as provided in paragraph (f) any two signatory States, acting through their Governors, may give joint notice of such desire to the Governors of the other signatory States and to The President of the United States of America, and it shall be the duty of the Governors of the signatory States and of The President of the United States of America forthwith to appoint representatives, whose duty it shall be to divide and apportion equitably between the Upper Basin and Lower Basin the beneficial use of the unapportioned water of the Colorado River

System as mentioned in paragraph (f), subject to the legislative ratification of the signatory States and the Congress of the United States of America.

ARTICLE IV

(a) Inasmuch as the Colorado River has ceased to be navigable for commerce and the reservation of its waters for navigation would seriously limit the development of its Basin, the use of its waters for purposes of navigation shall be subservient to the uses of such waters for domestic, agricultural and power purposes. If the Congress shall not consent to this paragraph, the other provisions of this compact shall nevertheless remain binding.

(b) Subject to the provisions of this compact, water of the Colorado River System may be impounded and used for the generation of electrical power, but such impounding and use shall be subservient to the use and consumption of such water for agricultural and domestic purposes and shall not interfere with or prevent use for such dominant purposes.

(c) The provisions of this article shall not apply to or interfere with the regulation and control, by any State within its boundaries of the appropriation, use and distribution of water.

ARTICLE V

The chief official of each signatory State charged with the administration of water rights, together with the Director of the United States Reclamation Service and the Director of the United States Geological Survey shall cooperate, ex-officio:

(a) To promote the systematic determination and coordination of the facts as to flow, appropriation, con-

sumption and use of water in the Colorado River Basin, and the interchange of available information in such matters.

(b) To secure the ascertainment and publication of the annual flow of the Colorado River at Lee Ferry.

(c) To perform such other duties as may be assigned by mutual consent of the signatories from time to time.

ARTICLE VI

Should any claim or controversy arise between any two or more of the signatory States: (a) with respect to the waters of the Colorado River System not covered by the terms of this compact; (b) over the meaning or performance of any of the terms of this compact; (c) as to the allocation of the burdens incident to the performance of any article of this compact or the delivery of waters as herein provided; (d) as to the construction or operation of works within the Colorado River Basin to be situated in two or more States, or to be constructed in one State for the benefit of another State; or (e) as to the diversion of water in one State for the benefit of another State; the Governors of the States affected, upon the request of one of them, shall forthwith appoint Commissioners with power to consider and adjust such claim or controversy, subject to ratification by the Legislatures of the States so affected.

Nothing herein contained shall prevent the adjustment of any such claim or controversy by any present method or by direct future legislative action of the interested States.

ARTICLE VII

Nothing in this compact shall be construed as affecting the obligations of the United States of America to Indian tribes.

ARTICLE VIII

Present perfected rights to the beneficial use of waters of the Colorado River System are unimpaired by this compact. Whenever storage capacity of 5,000,000 acre feet shall have been provided on the main Colorado River within or for the benefit of the Lower Basin, then claims of such rights, if any, by appropriators or users of water in the Lower Basin against appropriators or users of water in the Upper Basin shall attach to and be satisfied from water that may be stored not in conflict with Article III.

All other rights to beneficial use of waters of the Colorado River System shall be satisfied solely from the water apportioned to that Basin in which they are situate.

ARTICLE IX

Nothing in this compact shall be construed to limit or prevent any State from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under this compact or the enforcement of any of its provisions.

ARTICLE X

This compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

ARTICLE XI

This compact shall become binding and obligatory when it shall have been approved by the Legislatures of each of the signatory States and by the Congress of the United States. Notice of approval by the Legislatures shall be given by the Governor of each signatory State to the Governors of the other signatory States and to the President of the United States, and the President of the United States is requested to give notice to the Governors of the signatory States of approval by the Congress of the United States.

IN WITNESS WHEREOF, the Commissioners have signed this compact in a single original, which shall be deposited in the archives of the Department of State of the United States of America and of which a duly certified copy shall be forwarded to the Governor of each of the signatory States.

DONE at the City of Santa Fe, New Mexico, this twenty-fourth day of November, A. D. One Thousand Nine Hundred and Twenty-two.

(Signed) W. S. NORVIEL
(Signed) W. F. McCLURE
(Signed) DELPH E. CARPENTER
(Signed) J. G. SCRUGHAM
(Signed) STEPHEN B. DAVIS, JR.
(Signed) R. E. CALDWELL
(Signed) FRANK C. EMERSON

APPROVED:
(Signed) HERBERT HOOVER.

APPENDIX NO. 2

THE BOULDER CANYON PROJECT ACT

Act of December 21, 1928
45 Stat. 1057

CHAP. 42. An Act To provide for the construction of works for the protection and development of the Colorado River Basin, for the approval of the Colorado River compact, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of controlling the floods, improving navigation and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters thereof for reclamation of public lands and other beneficial uses exclusively within the United States, and for the generation of electrical energy as a means of making the project herein authorized a self-supporting and financially solvent undertaking, the Secretary of the Interior, subject to the terms of the Colorado River compact hereinafter mentioned, is hereby authorized to construct, operate, and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon adequate to create a storage reservoir of a capacity of not less than twenty million acre-feet of water and a main canal and appurtenant structures located entirely within the United States connecting the Laguna Dam or other suitable diversion dam, which the Secretary of the Interior is hereby authorized to construct if deemed necessary or advisable by him upon engineering or economic considerations, with the Imperial and Coachella Valleys in California, the expenditures for said main canal and appurtenant structures

to be reimbursable, as provided in the reclamation law, and shall not be paid out of revenues derived from the sale or disposal of water power or electric energy at the dam authorized to be constructed at said Black Canyon or Boulder Canyon, or for water for potable purposes outside of the Imperial and Coachella Valleys: *Provided, however*, That no charge shall be made for water or for the use, storage, or delivery of water for irrigation or water for potable purposes in the Imperial or Coachella Valleys; also to construct and equip, operate, and maintain at or near said dam, or cause to be constructed, a complete plant and incidental structures suitable for the fullest economic development of electrical energy from the water discharged from said reservoir; and to acquire by proceedings in eminent domain, or otherwise, all lands, rights of way, and other property necessary for said purposes.

Sec. 2. (a) There is hereby established a special fund, to be known as the "Colorado River Dam fund" (hereinafter referred to as the "fund"), and to be available, as hereafter provided, only for carrying out the provisions of this Act. All revenues received in carrying out the provisions of this Act shall be paid into and expenditures shall be made out of the fund, under the direction of the Secretary of the Interior.

(b) The Secretary of the Treasury is authorized to advance to the fund, from time to time and within the appropriations therefor, such amounts as the Secretary of the Interior deems necessary for carrying out the provisions of this Act, except that the aggregate amount of such advances shall not exceed the sum of $165,000,000. Of this amount the sum of $25,000,000 shall be allocated to flood control and shall be repaid to the United States out of 62½ per centum of revenues, if any, in excess of

the amount necessary to meet periodical payments during the period of amortization, as provided in section 4 of this Act. If said sum of $25,000,000 is not repaid in full during the period of amortization, then 62½ per centum of all net revenues shall be applied to payment of the remainder. Interest at the rate of 4 per centum per annum accruing during the year upon the amounts so advanced and remaining unpaid shall be paid annually out of the fund, except as herein otherwise provided.

(c) Moneys in the fund advanced under subdivision (b) shall be available only for expenditures for construction and the payment of interest during construction upon the amounts so advanced. No expenditures out of the fund shall be made for operation and maintenance except from appropriations therefor.

(d) The Secretary of the Treasury shall charge the fund as of June 30 in each year with such amount as may be necessary for the payment of interest on advances made under subdivision (b) at the rate of 4 per centum per annum accrued during the year upon the amounts so advanced and remaining unpaid, except that if the fund is insufficient to meet the payment of interest the Secretary of the Treasury may, in his discretion, defer any part of such payment, and the amount so deferred shall bear interest at the rate of 4 per centum per annum until paid.

(e) The Secretary of the Interior shall certify to the Secretary of the Treasury, at the close of each fiscal year, the amount of money in the fund in excess of the amount necessary for construction, operation, and maintenance, and payment of interest. Upon receipt of each such certificate the Secretary of the Treasury is author-

ized and directed to charge the fund with the amount so certified as repayment of the advances made under subdivision (b), which amount shall be covered into the Treasury to the credit of miscellaneous receipts.

Sec. 3. There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such sums of money as may be necessary to carry out the purposes of this Act, not exceeding in the aggregate $165,000,000.

Sec. 4 (a). This Act shall not take effect and no authority shall be exercised hereunder and no work shall be begun and no moneys expended on or in connection with the works or structures provided for in this Act, and no water rights shall be claimed or initiated hereunder, and no steps shall be taken by the United States or by others to initiate or perfect any claims to the use of water pertinent to such works or structures unless and until (1) the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming shall have ratified the Colorado River compact, mentioned in section 13 hereof, and the President by public proclamation shall have so declared, or (2) if said States fail to ratify the said compact within six months from the date of the passage of this Act then, until six of said States, including the State of California, shall ratify said compact and shall consent to waive the provisions of the first paragraph of Article XI of said compact, which makes the same binding and obligatory only when approved by each of the seven States signatory thereto, and shall have approved said compact without conditions, save that of such six-State approval, and the President by public proclamation shall have so declared, and, further, until the State of California, by act of its legislature, shall agree

irrevocably and unconditionally with the United States and for the benefit of the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming, as an express covenant and in consideration of the passage of this Act, that the aggregate annual consumptive use (diversions less returns to the river) of water of and from the Colorado River for use in the State of California, including all uses under contracts made under the provisions of this Act and all water necessary for the supply of any rights which may now exist, shall not exceed four million four hundred thousand acre-feet of the waters apportioned to the lower basin States by paragraph (a) of Article III of the Colorado River compact, plus not more than one-half of any excess or surplus waters unapportioned by said compact, such uses always to be subject to the terms of said compact.

The States of Arizona, California, and Nevada are authorized to enter into an agreement which shall provide (1) that of the 7,500,000 acre-feet annually apportioned to the lower basin by paragraph (a) of Article III of the Colorado River compact, there shall be apportioned to the State of Nevada 300,000 acre-feet and to the State of Arizona 2,800,000 acre-feet for exclusive beneficial consumptive use in perpetuity, and (2) that the State of Arizona may annually use one-half of the excess or surplus waters unapportioned by the Colorado River compact, and (3) that the State of Arizona shall have the exclusive beneficial consumptive use of the Gila River and its tributaries within the boundaries of said State, and (4) that the waters of the Gila River and its tributaries, except return flow after the same enters the Colorado River, shall never be subject to any diminution whatever by any allowance of water which may be made by treaty

or otherwise to the United States of Mexico but if, as provided in paragraph (c) of Article III of the Colorado River compact, it shall become necessary to supply water to the United States of Mexico from waters over and above the quantities which are surplus as defined by said compact, then the State of California shall and will mutually agree with the State of Arizona to supply, out of the main stream of the Colorado River, one-half of any deficiency which must be supplied to Mexico by the lower basin, and (5) that the State of California shall and will further mutually agree with the States of Arizona and Nevada that none of said three States shall withhold water and none shall require the delivery of water, which cannot reasonably be applied to domestic and agricultural uses, and (6) that all of the provisions of said tri-State agreement shall be subject in all particulars to the provisions of the Colorado River compact, and (7) said agreement to take effect upon the ratification of the Colorado River compact by Arizona, California, and Nevada.

(b) Before any money is appropriated for the construction of said dam or power plant, or any construction work done or contracted for, the Secretary of the Interior shall make provision for revenues by contract, in accordance with the provisions of this Act, adequate in his judgment to insure payment of all expenses of operation and maintenance of said works incurred by the United States and the repayment, within fifty years from the date of the completion of said works, of all amounts advanced to the fund under subdivision (b) of section 2 for such works, together with interest thereon made reimbursable under this Act.

Before any money is appropriated for the construction of said main canal and appurtenant structures to connect

the Laguna Dam with the Imperial and Coachella Valleys in California, or any construction work is done upon said canal or contracted for, the Secretary of the Interior shall make provision for revenues, by contract or otherwise, adequate in his judgment to insure payment of all expenses of construction, operation, and maintenance of said main canal and appurtenant structures in the manner provided in the reclamation law.

If during the period of amortization the Secretary of the Interior shall receive revenues in excess of the amount necessary to meet the periodical payments to the United States as provided in the contract, or contracts, executed under this Act, then, immediately after the settlement of such periodical payments, he shall pay to the State of Arizona 18¾ per centum of such excess revenues and to the State of Nevada 18¾ per centum of such excess revenues.

Sec. 5. That the Secretary of the Interior is hereby authorized, under such general regulations as he may prescribe, to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon, for irrigation and domestic uses, and generation of electrical energy and delivery at the switchboard to States, municipal corporations, political subdivisions, and private corporations of electrical energy generated at said dam, upon charges that will provide revenue which, in addition to other revenue accruing under the reclamation law and under this Act, will in his judgment cover all expenses of operation and maintenance incurred by the United States on account of works constructed under this Act and the payments to the United States under subdivision (h) of section 4.

Contracts respecting water for irrigation and domestic uses shall be for permanent service and shall conform to paragraph (a) of section 4 of this Act. No person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract made as herein stated.

After the repayments to the United States of all money advanced with interest, charges shall be on such basis and the revenues derived therefrom shall be kept in a separate fund to be expended within the Colorado River Basin as may hereafter be prescribed by the Congress.

General and uniform regulations shall be prescribed by the said Secretary for the awarding of contracts for the sale and delivery of electrical energy, and for renewals under subdivision (b) of this section, and in making such contracts the following shall govern:

(a) No contract for electrical energy or for generation of electrical energy shall be of longer duration than fifty years from the date at which such energy is ready for delivery.

Contracts made pursuant to subdivision (a) of this section shall be made with a view to obtaining reasonable returns and shall contain provisions whereby at the end of fifteen years from the date of their execution and every ten years thereafter, there shall be readjustment of the contract, upon the demand of either party thereto, either upward or downward as to price, as the Secretary of the Interior may find to be justified by competitive conditions at distributing points or competitive centers, and with provisions under which disputes or disagreements as to interpretation or performance of such contract shall be

determined either by arbitration or court proceedings, the Secretary of the Interior being authorized to act for the United States in such readjustments or proceedings.

(b) The holder of any contract for electrical energy not in default thereunder shall be entitled to a renewal thereof upon such terms and conditions as may be authorized or required under the then existing laws and regulations, unless the property of such holder dependent for its usefulness on a continuation of the contract be purchased or acquired and such holder be compensated for damages to its property, used and useful in the transmission and distribution of such electrical energy and not taken, resulting from the termination of the supply.

(c) Contracts for the use of water and necessary privileges for the generation and distribution of hydroelectric energy or for the sale and delivery of electrical energy shall be made with responsible applicants therefor who will pay the price fixed by the said Secretary with a view to meeting the revenue requirements herein provided for. In case of conflicting applications, if any, such conflicts shall be resolved by the said Secretary, after hearing, with due regard to the public interest, and in conformity with the policy expressed in the Federal Water Power Act as to conflicting applications for permits and licenses, except that preference to applicants for the use of water and appurtenant works and privileges necessary for the generation and distribution of hydroelectric energy, or for delivery at the switchboard of a hydroelectric plant, shall be given, first, to a State for the generation or purchase of electric energy for use in the State, and the States of Arizona, California, and Nevada shall be given equal opportunity as such applicants.

The rights covered by such preference shall be contracted for by such State within six months after notice by the Secretary of the Interior and to be paid for on the same terms and conditions as may be provided in other similar contracts made by said Secretary: *Provided, however,* That no application of a State or a political subdivision for an allocation of water for power purposes or of electrical energy shall be denied or another application in conflict therewith be granted on the ground that the bond issue of such State or political subdivision, necessary to enable the applicant to utilize such water and appurtenant works and privileges necessary for the generation and distribution of hydroelectric energy or the electrical energy applied for, has not been authorized or marketed, until after a reasonable time, to be determined by the said Secretary, has been given to such applicant to have such bond issue authorized and marketed.

(d) Any agency receiving a contract for electrical energy equivalent to one hundred thousand firm horsepower, or more, may, when deemed feasible by the said Secretary, from engineering and economic considerations and under general regulations prescribed by him, be required to permit any other agency having contracts hereunder for less than the equivalent of twenty-five thousand firm horsepower, upon application to the Secretary of the Interior made within sixty days from the execution of the contract of the agency the use of whose transmission line is applied for, to participate in the benefits and use of any main transmission line constructed or to be constructed by the former for carrying such energy (not exceeding, however, one-fourth the capacity of such line), upon payment by such other agencies of a reasonable share

of the cost of construction, operation, and maintenance thereof.

The use is hereby authorized of such public and reserved lands of the United States as may be necessary or convenient for the construction, operation, and maintenance of main transmission lines to transmit said electrical energy.

Sec. 6. That the dam and reservoir provided for by section 1 hereof shall be used: First, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and satisfaction of present perfected rights in pursuance of Article VIII of said Colorado River compact; and third, for power. The title to said dam, reservoir, plant, and incidental works shall forever remain in the United States, and the United States shall, until otherwise provided by Congress, control, manage, and operate the same except as herein otherwise provided: *Provided, however*, That the Secretary of the Interior may, in his discretion, enter into contracts of lease of a unit or units of any Government-built plant, with right to generate electrical energy, or, alternatively, to enter into contracts of lease for the use of water for the generation of electrical energy as herein provided, in either of which events the provision of section 5 of this Act relating to revenue, term, renewals, determination of conflicting applications, and joint use of transmission lines under contracts for the sale of electrical energy, shall apply.

The Secretary of the Interior shall prescribe and enforce rules and regulations conforming with the requirements of the Federal Water Power Act, so far as applicable, respecting maintenance of works in condition of

repair adequate for their efficient operation, maintenance of a system of accounting, control of rates and service in the absence of State regulation or interstate agreement, valuation for rate-making purposes, transfers of contracts, contracts extending beyond the lease period, expropriation of excessive profits, recapture and/or emergency use by the United States of property of lessees, and penalties for enforcing regulations made under this Act or penalizing failure to comply with such regulations or with the provisions of this Act. He shall also conform with other provisions of the Federal Water Power Act and of the rules and regulations of the Federal Power Commission, which have been devised or which may be hereafter devised, for the protection of the investor and consumer.

The Federal Power Commission is hereby directed not to issue or approve any permits or licenses under said Federal Water Power Act upon or affecting the Colorado River or any of its tributaries, except the Gila River, in the States of Colorado, Wyoming, Utah, New Mexico, Nevada, Arizona, and California until this Act shall become effective as provided in section 4 herein.

Sec. 7. That the Secretary of the Interior may, in his discretion, when repayments to the United States of all money advanced, with interest, reimbursable hereunder, shall have been made, transfer the title to said canal and appurtenant structures, except the Laguna Dam and the main canal and appurtenant structures down to and including Syphon Drop, to the districts or other agencies of the United States having a beneficial interest therein in proportion to their respective capital investments under such form of organization as may be acceptable to him. The said districts or other agencies shall have the privi-

lege at any time of utilizing by contract or otherwise such power possibilities as may exist upon said canal, in proportion to their respective contributions or obligations toward the capital cost of said canal and appurtenant structures from and including the diversion works to the point where each respective power plant may be located. The net proceeds from any power development on said canal shall be paid into the fund and credited to said districts or other agencies on their said contracts, in proportion to their rights to develop power, until the districts or other agencies using said canal shall have paid thereby and under any contract or otherwise an amount of money equivalent to the operation and maintenance expense and cost of construction thereof.

Sec. 8. (a) The United States, its permittees, licensees, and contractees, and all users and appropriators of water stored, diverted, carried, and/or distributed by the reservoir, canals, and other works herein authorized, shall observe and be subject to and controlled by said Colorado River compact in the construction, management, and operation of said reservoir, canals, and other works and the storage, diversion, delivery, and use of water for the generation of power, irrigation, and other purposes, anything in this Act to the contrary notwithstanding, and all permits, licenses, and contracts shall so provide.

(b) Also the United States, in constructing, managing, and operating the dam, reservoir, canals, and other works herein authorized, including the appropriation, delivery, and use of water for the generation of power, irrigation, or other uses, and all users of water thus delivered and all users and appropriators of waters stored by said reservoir and/or carried by said canal, including all permittees

and licensees of the United States or any of its agencies, shall observe and be subject to and controlled, anything to the contrary herein notwithstanding, by the terms of such compact, if any, between the States of Arizona, California, and Nevada, or any two thereof, for the equitable division of the benefits, including power, arising from the use of water accruing to said States, subsidiary to and consistent with said Colorado River compact, which may be negotiated and approved by said States and to which Congress shall give its consent and approval on or before January 1, 1929; and the terms of any such compact concluded between said States and approved and consented to by Congress after said date: *Provided*, That in the latter case such compact shall be subject to all contracts, if any, made by the Secretary of the Interior under section 5 hereof prior to the date of such approval and consent by Congress.

Sec. 9. That all lands of the United States found by the Secretary of the Interior to be practicable of irrigation and reclamation by the irrigation works authorized herein shall be withdrawn from public entry. Thereafter, at the direction of the Secretary of the Interior, such lands shall be opened for entry, in tracts varying in size but not exceeding one hundred and sixty acres, as may be determined by the Secretary of the Interior, in accordance with the provisions of the reclamation law, and any such entryman shall pay an equitable share in accordance with the benefits received, as determined by the said Secretary, of the construction cost of said canal and appurtenant structures; said payments to be made in such installments and at such times as may be specified by the Secretary of the Interior, in accordance with the provisions of the said reclamation law, and shall constitute

revenue from said project and be covered into the fund herein provided for: *Provided*, That all persons who have served in the United States Army, Navy, or Marine Corps during the war with Germany, the war with Spain, or in the suppression of the insurrection in the Philippines, and who have been honorably separated or discharged therefrom or placed in the Regular Army or Navy Reserve, shall have the exclusive preference right for a period of three months to enter said lands, subject, however, to the provisions of subsection (c) of section 4, Act of December 5, 1924 (Forty-third Statutes at Large, page 702); and also, so far as practicable, preference shall be given to said persons in all construction work authorized by this Act: *Provided further*, That in the event such an entry shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, lands so relinquished shall not be subject to entry for a period of sixty days after the filing and notation of the relinquishment in the local land office, and after the expiration of said sixty-day period such lands shall be open to entry, subject to the preference in this section provided.

Sec. 10. That nothing in this Act shall be construed as modifying in any manner the existing contract, dated October 23, 1918, between the United States and the Imperial Irrigation District, providing for a connection with Laguna Dam; but the Secretary of the Interior is authorized to enter into contract or contracts with the said district or other districts, persons, or agencies for the construction, in accordance with this Act, of said canal and appurtenant structures, and also for the operation and maintenance thereof, with the consent of the other users.

Sec. 11. That the Secretary of the Interior is hereby authorized to make such studies, surveys, investigations, and do such engineering as may be necessary to determine the lands in the State of Arizona that should be embraced within the boundaries of a reclamation project, heretofore commonly known and hereafter to be known as the Parker-Gila Valley reclamation project, and to recommend the most practicable and feasible method of irrigating lands within said project, or units thereof, and the cost of the same; and the appropriation of such sums of money as may be necessary for the aforesaid purposes from time to time is hereby authorized. The Secretary shall report to Congress as soon as practicable, and not later than December 10, 1931, his findings, conclusions, and recommendations regarding such project.

Sec. 12. "Political subdivision" or "political subdivisions" as used in this Act shall be understood to include any State, irrigation or other district, municipality, or other governmental organization.

"Reclamation law" as used in this Act shall be understood to mean that certain Act of the Congress of the United States approved June 17, 1902, entitled "An Act appropriating the receipts from the sale and disposal of public land in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," and the Acts amendatory thereof and supplemental thereto.

"Maintenance" as used herein shall be deemed to include in each instance provision for keeping the works in good operating condition.

"The Federal Water Power Act," as used in this Act, shall be understood to mean that certain Act of Con-

gress of the United States approved June 10, 1920, entitled "An Act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes," and the Acts amendatory thereof and supplemental thereto.

"Domestic" whenever employed in this Act shall include water uses defined as "domestic" in said Colorado River compact.

Sec. 13. (a) The Colorado River compact signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes," is hereby approved by the Congress of the United States, and the provisions of the first paragraph of article 11 of the said Colorado River compact, making said compact binding and obligatory when it shall have been approved by the legislature of each of the signatory States, are hereby waived, and this approval shall become effective when the State of California and at least five of the other States mentioned, shall have approved or may hereafter approve said compact as aforesaid and shall consent to such waiver, as herein provided.

(b) The rights of the United States in or to waters of the Colorado River and its tributaries howsoever claimed or acquired, as well as the rights of those claiming under the United States, shall be subject to and controlled by said Colorado River compact.

(c) Also all patents, grants, contracts, concessions, leases, permits, licenses, rights of way, or other privileges from the United States or under its authority, necessary or convenient for the use of waters of the Colorado River or its tributaries, or for the generation or transmission of electrical energy generated by means of the waters of said river or its tributaries, whether under this Act, the Federal Water Power Act, or otherwise, shall be upon the express condition and with the express covenant that the rights of the recipients or holders thereof to waters of the river or its tributaries, for the use of which the same are necessary, convenient, or incidental, and the use of the same shall likewise be subject to and controlled by said Colorado River compact.

(d) The conditions and covenants referred to herein shall be deemed to run with the land and the right, interest, or privilege therein and water right, and shall attach as a matter of law, whether set out or referred to in the instrument evidencing any such patent, grant, contract, concession, lease, permit, license, right of way, or other privilege from the United States or under its authority, or not, and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, and the users of water therein or thereunder, by way of suit, defense, or otherwise, in any litigation respecting the waters of the Colorado River or its tributaries.

Sec. 14. This Act shall be deemed a supplement to the reclamation law, which said reclamation law shall govern

the construction, operation, and management of the works herein authorized, except as otherwise herein provided.

Sec. 15. The Secretary of the Interior is authorized and directed to make investigation and public reports of the feasibility of projects for irrigation, generation of electric power, and other purposes in the States of Arizona, Nevada, Colorado, New Mexico, Utah, and Wyoming for the purpose of making such information available to said States and to the Congress, and of formulating a comprehensive scheme of control and the improvement and utilization of the water of the Colorado River and its tributaries. The sum of $250,000 is hereby authorized to be appropriated from said Colorado River Dam fund, created by section 2 of this Act, for such purposes.

Sec. 16. In furtherance of any comprehensive plan formulated hereafter for the control, improvement, and utilization of the resources of the Colorado River system and to the end that the project authorized by this Act may constitute and be administered as a unit in such control, improvement, and utilization, any commission or commissioner duly authorized under the laws of any ratifying State in that behalf shall have the right to act in an advisory capacity to and in cooperation with the Secretary of the Interior in the exercise of any authority under the provisions of sections 4, 5, and 14 of this Act, and shall have at all times access to records of all Federal agencies empowered to act under said sections, and shall be entitled to have copies of said records on request.

Sec. 17. Claims of the United States arising out of any contract authorized by this Act shall have priority over all others, secured or unsecured.

Sec. 18. Nothing herein shall be construed as interfering with such rights as the States now have either to the waters within their borders or to adopt such policies and enact such laws as they may deem necessary with respect to the appropriation, control, and use of waters within their borders, except as modified by the Colorado River compact or other interstate agreement.

Sec. 19. That the consent of Congress is hereby given to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming to negotiate and enter into compacts or agreements, supplemental to and in conformity with the Colorado River compact and consistent with this Act for a comprehensive plan for the development of the Colorado River and providing for the storage, diversion, and use of the waters of said river. Any such compact or agreement may provide for the construction of dams, headworks, and other diversion works or structures for flood control, reclamation, improvement of navigation, division of water, or other purposes and/or the construction of power houses or other structures for the purpose of the development of water power and the financing of the same; and for such purposes may authorize the creation of interstate commissions and/or the creation of corporations, authorities, or other instrumentalities.

(a) Such consent is given upon condition that a representative of the United States, to be appointed by the President, shall participate in the negotiations and shall make report to Congress of the proceedings and of any compact or agreement entered into.

(b) No such compact or agreement shall be binding or obligatory upon any of such States unless and until it has been approved by the legislature of each of such States and by the Congress of the United States.

Sec. 20. Nothing in this Act shall be construed as a denial or recognition of any rights, if any, in Mexico to the use of the waters of the Colorado River system.

Sec. 21. That the short title of this Act shall be "Boulder Canyon Project Act."

Approved, December 21, 1928.

APPENDIX NO. 3

THE CALIFORNIA LIMITATION ACT

Chap. 16, Calif. Stats. 1929, p. 38

CHAP. 16. An act to limit the use by California of the waters of the Colorado river in compliance with the act of congress known as the "Boulder canyon project act," approved December 21, 1928, in the event the Colorado river compact is not approved by all of the states signatory thereto.

[Approved by the Governor March 4, 1929. In effect August 14, 1929.]

The people of the State of California do enact as follows:

Section 1. In the event the Colorado river compact signed at Santa Fe, New Mexico, November 24, 1922, and approved by and set out at length in that certain act entitled "An act to ratify and approve the Colorado river compact, signed at Santa Fe, New Mexico, November 24, 1922, to repeal conflicting acts and resolutions and directing that notice be given by the governor of such ratifications and approval," approved January 10, 1929, (statutes 1929, chapter 1) is not approved within six months from the date of the passage of that certain act of the congress of the United States known as the "Boulder canyon project act," approved December 21, 1928, by the legislatures of each of the seven states signatory thereto, as provided by article eleven of the said Colorado river compact, then when six of said states, including California, shall have ratified and approved said compact and shall have consented to waive the provisions of the first paragraph of

article eleven of said compact which makes the same binding and obligatory when approved by each of the states signatory thereto, and shall have approved said compact without conditions save that of such six states approval and the President by public proclamation shall have so declared, as provided by the said "Boulder canyon project act," the State of California as of the date of such proclamation agrees irrevocably and unconditionally with the United States and for the benefit of the states of Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming as an express covenant and in consideration of the passage of the said "Boulder canyon project act" that the aggregate annual consumptive use (diversions less returns to the river) of water of and from the Colorado river for use in the State of California including all uses under contracts made under the provisions of said "Boulder canyon project act," and all water necessary for the supply of any rights which may now exist, shall not exceed four million four hundred thousand acre-feet of the waters apportioned to the lower basin states by paragraph "a" of article three of the said Colorado river compact, plus not more than one-half of any excess or surplus waters unapportioned by said compact, such uses always to be subject to the terms of said compact.

Sec. 2. By this act the State of California intends to comply with the conditions respecting limitation on the use of water specified in subdivision 2 of section 4 (*a*) of the said "Boulder canyon project act" and this act shall be so construed.

APPENDIX NO. 4

THE PRESIDENTIAL PROCLAMATION OF JUNE 25, 1929

Act of June 25, 1929
46 Stat. 3000

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
PUBLIC PROCLAMATION

Pursuant to the provisions of Section 4(a) of the Boulder Canyon Project Act approved December 21, 1928 (45 Stat. 1057), it is hereby declared by Public Proclamation:

(a) That the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming have not ratified the Colorado River Compact mentioned in Section 13(a) of said act of December 21, 1928, within six months from the date of the passage and approval of said act.

(b) That the States of California, Colorado, Nevada, New Mexico, Utah and Wyoming have ratified said compact and have consented to waive the provisions of the first paragraph of Article XI of said compact, which makes the same binding and obligatory only when approved by each of the seven States signatory thereto, and that each of the States last named has approved said compact without condition, except that of six-State approval as prescribed in Section 13(a) of said act of December 21, 1928.

(c) That the State of California has in all things met the requirements set out in the first paragraph of Section 4(a) of said act of December 21, 1928, necessary to render said act effective on six-State approval of said compact.

(d). All prescribed conditions having been fulfilled, the said Boulder Canyon Project Act approved December 21, 1928, is hereby declared to be effective this date.

In testimony whereof I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the city of Washington this 25" day of June, in the year of our Lord One Thousand Nine Hundred and Twenty-nine, and of the Independence of the United States of America, the One Hundred and Fifty-third.

[Seal]

HERBERT HOOVER

By the President:

HENRY L. STIMSON

Secretary of State.

APPENDIX NO. 5

CONGRESSIONAL AUTHORIZATION OF THE PARKER DAM DIVERSION STRUCTURE AND RATIFICATION OF RELATED CONTRACTS

Act of August 30, 1935
49 Stat. 1028

CHAP. 831. An Act Authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

[Pertinent Section Only, p. 1039]

Sec. 2. That for the purpose of controlling floods, improving navigation, regulating the flow of the streams of the United States, providing for storage and for the delivery of the stored waters thereof, for the reclamation of public lands and Indian reservations, and other beneficial uses, and for the generation of electric energy as a means of financially aiding and assisting such undertakings, the projects known as "Parker Dam" on the Colorado River and "Grand Coulee Dam" on the Columbia River, are hereby authorized and adopted, and all contracts and agreements which have been executed in connection therewith are hereby validated and ratified, and the President, acting through such agents as he may designate, is hereby authorized to construct, operate, and maintain dams, structures, canals, and incidental works necessary to such projects, and in connection therewith to make and enter into any and all necessary contracts including contracts amendatory of or supplemental to those hereby validated and ratified. The construction by the Secretary of the Interior of a dam in and across the Colorado River at or near Head Gate Rock, Arizona, and struc-

tures, canals, and incidental works necessary in connection therewith is hereby authorized, and none of the waters conserved, used, or appropriated under the works hereby authorized shall be charged against the waters allocated to the upper basin by the Colorado River compact, nor shall any priority be established against such upper basin by reason of such conservation, use, or appropriation; nor shall said dam, structures, canals, and works, or any of them, be used as the basis of making any such charge, or establishing any such priority or right, and all contracts between the United States and the users of said water from or by means of said instrumentalities shall provide against the making of any such charge or claim or the establishment of any priority right or claim to any part or share of the water of the Colorado River allocated to the Upper Basin by the Colorado River compact, and all use of said instrumentalities shall be in compliance with the conditions and provisions of said Colorado River compact and the Boulder Canyon Project Act.

APPENDIX NO. 6

CONGRESSIONAL RATIFICATION OF SAN DIEGO AQUEDUCT DIVERSION

Act of April 15, 1948
62 Stat. 171

CHAP. 186. An Act relating to the construction and disposition of the San Jacinto-San Vicente aqueduct.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby (1) ratifies the action taken by various departments and agencies in the executive branch of the Government in planning for and proceeding with the construction of an aqueduct running from a connection with the Colorado River aqueduct of the Metropolitan Water District of Southern California near the west portal of San Jacinto tunnel in Riverside County, California, to San Vicente Reservoir in San Diego County, California; (2) authorizes the completion of such aqueduct in accordance with existing Government plans for the completion thereof; and (3) ratifies the action of the Navy Department in disposing of the aqueduct to the city of San Diego, California, pursuant to contract NOy-13300 which provides, among other things, for the leasing of such aqueduct to such city.

Approved April 15, 1948.

APPENDIX NO. 7

CONGRESSIONAL AUTHORIZATION OF SECOND "BARREL" FOR SAN DIEGO

Act of October 11, 1951
65 Stat. 404

CHAP. 494. An Act To authorize the Secretary of the Navy to enlarge existing water-supply facilities for the San Diego, California, area in order to insure the existence of an adequate water supply for naval installations and defense production plants in such area.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of section 3 of this Act, the Secretary of the Navy, under the direction of the Secretary of Defense, is authorized and directed to provide for—

(1) such enlargement of the existing aqueduct extending from the west end of the San Jacinto tunnel of the Metropolitan Water District of Southern California to the San Vicente Reservoir in San Diego County, California, as may be necessary to increase the rated capacity of such existing aqueduct from eighty-five cubic feet per second to not less than one hundred and sixty-five cubic feet per second, or

(2) the construction of a new aqueduct paralleling such existing aqueduct and having a rated capacity of not less than eighty cubic feet per second.

Sec. 2. The use of all water diverted through said works from the Colorado River shall be subject to and controlled by the Colorado River Compact, the Boulder

Canyon Project Act, the California Self-Limitation Statute and the Mexican Water Treaty and shall be included within and shall in no way increase the total quantity of water to the use of which the State of California is entitled and limited by said compact, statutes, and treaty.

Sec. 3. No construction shall be undertaken under the authority of section 1 of this Act and no funds shall be expended for the preparation of plans or specifications for any such construction unless and until the Secretary of the Navy has entered into a contract with the San Diego County Water Authority amending the contract (NOy-13300) of October 17, 1945 (providing for the completion of such existing aqueduct), to provide—

(1) for the computation of the true cost of the work performed under the authority of section 1 of this Act in the same manner as provided for determining true cost in such contract of October 17, 1945;

(2) for the repayment of the true cost of the work performed under the authority of section 1 of this Act, together with interest on such amount computed at the rate certified by the Secretary of the Treasury to be the average rate paid by United States on its long-term loans, within a period of forty years after the completion and delivery to the San Diego County Water Authority of possession of the works constructed under the authority of this Act: *Provided*, That repayment shall be made in annual installments of not less than one-fortieth of the true cost due when computed as herein prescribed plus annually accrued interest;

(3) that the use of all water diverted through said works from the Colorado River shall be subject to and controlled by the Colorado River Compact, the Boulder Canyon Project Act, the California Self-Limitation Statute and the Mexican Water Treaty and shall be included within and shall in no way increase the total quantity of water to the use of which the State of California is entitled and limited by the said compact, treaty, and statutes;

(4) for the conveyance by the United States to the San Diego County Water Authority of title to the works constructed (including all rights-of-way and other interests in land used in connection with such works) under such contract of October 17, 1945, together with the works constructed under the authority of section 1 of this Act, upon repayment of the true cost of such works, including interest, computed as hereinabove set forth; and

(5) that after the effective date of this contract the member agencies of the San Diego County Water Authority, their successors or assigns as the distributors of the water, shall furnish to the Government on a preferential basis and at a rate no higher than that charged other users of comparable quanities of water, a quantity of water sufficient to meet the requirements of Government activities located and to be located in the area served by such agencies.

Sec. 4. For the purpose of enabling him to carry out the provisions of the first section of this Act, the Secretary of the Navy is authorized to acquire lands and rights

pertaining thereto, or other interests therein, including the temporary use thereof, by donation, purchase, exchange of Government-owned lands, or otherwise.

Sec. 5. The United States and the San Diego County Water Authority and their respective permittees, licensees, and contractees and all users and appropriators of water of the Colorado River diverted or delivered through the existing aqueduct and the enlargement or addition thereto shall observe and be subject to the Colorado River Compact, the Boulder Canyon Project Act, the California Self-Limitation Statute and the Mexican Water Treaty in the diversion, delivery, and use of water of the Colorado River, anything in this Act to the contrary notwithstanding, and such condition and covenant shall attach as a matter of law whether or not set out or referred to in the instrument evidencing such permit, license, or contract and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming and the users of water therein or thereunder by way of suit, defense, or otherwise in any litigation respecting the waters of the Colorado River.

Sec. 6. The Secretary of the Navy is authorized to provide for the construction of the whole or any part of the work authorized by the first section of this Act (1) by contract, (2) by the use of facilities and personnel of the Navy Department, or (3) by the use of the facilities and personnel of any other department or agency of the United States with which an agreement may be entered

into to perform or to have performed the whole or any part of such work.

Sec. 7. The appropriation of such sums as may be necessary to carry out the provisions of this Act is hereby authorized.

Sec. 8. This Act and all works constructed hereunder shall be subject to and controlled by the Colorado River Compact dated November 24, 1922, and proclaimed effective by the President June 25, 1929; the Boulder Canyon Project Act approved December 21, 1928; the California Limitation Act approved by the Governor of California March 4, 1929; and no right or claim of right to the use of the waters of the Colorado River shall be aided or prejudiced hereby.

Approved October 11, 1951.

APPENDIX NO. 8

GENERAL REGULATIONS, SEPTEMBER 28, 1931

United States Department of the Interior,
Office of the Secretary,
Washington, September 28, 1931.

General Regulations

Contracts for the Storage of Water in Boulder Canyon Reservoir, Boulder Canyon Project, and the Delivery Thereof

1. No person shall have or be entitled to have the use for any purpose of the water stored in Boulder Canyon Reservoir except by contract made in pursuance of these regulations. All contracts for delivery of water shall be subject to all the terms and provisions of the Colorado River Compact and of the Boulder Canyon Project Act.

2. The right is reserved to amend or extend these regulations from time to time consistently with said compact and the laws of Congress, as the public need may require.

3. Storage water in Boulder Canyon Reservoir will be delivered upon such terms and conditions as the Secretary may fix from time to time by regulations and contracts thereunder. Water so contracted for may be delivered at such points on the river as may be agreed upon for irrigation and domestic uses.

4. Contracts respecting water for irrigation and domestic uses shall be for permanent service, and shall conform to Paragraph a of Section 4 of the Boulder Canyon Project Act.

5. No charge shall be made for water or for the use, storage or delivery of water for irrigation or for water for potable purposes in the Imperial and Coachella Valleys. Charges otherwise shall be fixed by regulation from time to time. Where water is permitted by the Secretary to be taken from the Colorado River from the reservoir above the Hoover Dam, the utilization of the power plant will be impaired to that extent, and the right is reserved to make a higher charge for water taken above the dam, than if delivery is made below the dam.

6. Subject to the provisions of Article 7 of these regulations, deliveries of water to users in California shall be in accordance with the following recommendation of the State Division of Water Resources:

"The waters of the Colorado River available for use within the State of California under the Colorado River Compact and the Boulder Canyon Project Act shall be apportioned to the respective interests below named and in amounts and with priorities therein named and set forth, as follows:

"Section 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said District as it now exists and upon lands between said District and the Colorado River, aggregating (within and without said District) a gross area of 104,500 acres, such waters as may be required by said lands.

"Sec. 2. A second priority to Yuma Project of United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land located in said project in California, such waters as may be required by said lands.

"Sec. 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the 'Lower Palo Verde Mesa,' adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 3,850,000 acre-feet of water per annum less the beneficial consumptive use under the priorities designated in Sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in Sections 1, 2, and 3 of this article shall not exceed 3,850,000 acre-feet of water per annum.

"Sec. 4. A fourth priority to the Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre-feet of water per annum.

"Sec. 5. A fifth priority (a) to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre-feet of water per annum and (b) to the City of San Diego and/or County of San Diego, for beneficial consumptive use, 112,000 acre-feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

"Sec. 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for

use exclusively on 16,000 acres in that area known as the Lower Palo Verde Mesa, adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 300,000 acre-feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

"Sec. 7. A seventh priority of all remaining water available for use within California, for agricultural use in the Colorado River Basin in California, as said basin is designated on Map No. 23000 of the Department of the Interior, Bureau of Reclamation.

"Sec. 8. So far as the rights of the allottees named above are concerned, the Metropolitan Water District of Southern California and/or the City of Los Angeles shall have the exclusive right to withdraw and divert into its aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said District and/or said City (not exceeding at any one time 4,750,000 acre-feet in the aggregate) by reason of reduced diversions by said District and/or said City; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between said District and/or said City and such users resulting therefrom.

"Sec. 9. In addition, so far as the rights of the allottees named above are concerned, the City of San Diego and/or County of San Diego shall have the exclusive right to withdraw and divert into an aqueduct any water in

Boulder Canyon Reservoir accumulated to the individual credit of said City and/or said County (not exceeding at any one time 250,000 acre-feet in the aggregate) by reason of reduced diversions by said City and/or said County; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between the said City and/or said County and such users resulting therefrom.

"Sec. 10. In no event shall the amounts allotted in this agreement to the Metropolitan Water District of Southern California and/or the City of Los Angeles be increased on account of inclusions of a supply for both said District and said City, and either or both may use said apportionments as may be agreed by and between said District and said City.

"Sec. 11. In no event shall the amounts allotted in this agreement to the City of San Diego and/or to the County of San Diego be increased on account of inclusion of a supply for both said City and said County, and either or both may use said apportionments as may be agreed by and between said City and said County.

"Sec. 12. The priorities hereinbefore set forth shall be in no wise affected by the relative dates of water contracts executed by the Secretary of the Interior with the various parties."

7. The Secretary reserves the right to contract with any of the allottees above named in accordance with the above stated recommendation, or, in the event that such recommendation as to Palo Verde Irrigation District is superseded by an agreement between all the above allottees or by a final judicial determination, to contract with the Palo Verde Irrigation District in accordance with such agreement or determination; *Provided,* that priorites numbered fourth and fifth in said recommendation shall not thereby be disturbed.

(Signed) RAY LYMAN WILBUR,
Secretary of the Interior.

September 28, 1931.

APPENDIX NO. 9

GENERAL REGULATIONS, APRIL 23, 1930.

The Secretary of the Interior,
Washington, April 23, 1930.

General Regulations

Contracts for the Storage of Water in Boulder Canyon Reservoir, Boulder Canyon Project, and the Delivery Thereof

Storage water in Boulder Canyon Reservoir will be sold upon such terms and conditions as the Secretary may fix from time to time. Water so sold may be delivered at such points on the river as may be agreed upon for irrigation and domestic uses.

Contracts respecting water for domestic uses shall be for permanent service, and shall conform to Paragraph a of Section 4 of the Boulder Canyon Project Act. No charge shall be made for water or for the use, storage or delivery of water for irrigation or for water for potable purposes in the Imperial or Coachella Valleys.

Where water is taken from the Colorado River above the Boulder Canyon Dam, the utilization of the power plant will be impaired to that extent, and the right is reserved to make a higher charge for water taken above the dam, than if delivery is made below the dam.

No person shall have or be entitled to have the use for any purpose of the water stored in Boulder Canyon Reservoir except by contract made in pursuance of these regulations. All purchases of water shall be subject to all

the terms and provisions of the Colorado River Compact and of the Boulder Canyon Project Act.

The right is reserved to amend or extend these regulations from time to time consistently with said compact and the laws of Congress, as the public need may require.

RAY LYMAN WILBUR,
Secretary of the Interior.

APPENDIX NO. 10

THE SEVEN PARTY PRIORITY WATER AGREEMENT

Aug. 18, 1931

AGREEMENT REQUESTING THE DIVISION OF WATER RESOURCES OF THE STATE OF CALIFORNIA TO APPORTION CALIFORNIA'S SHARE OF THE WATERS OF THE COLORADO RIVER AMONG THE VARIOUS APPLICANTS AND WATER USERS THEREFROM IN THE STATE, CONSENTING TO SUCH APPORTIONMENTS, AND REQUESTING SIMILAR APPORTIONMENTS BY THE SECRETARY OF THE INTERIOR OF THE UNITED STATES.

This Agreement, made the 18th day of August, 1931, by and between Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley County Water District, Metropolitan Water District of Southern California, City of Los Angeles, City of San Diego and County of San Diego;

Witnesseth:

Whereas the Secretary of the Interior did, on November 5, 1930, request of the Division of Water Resources of California a recommendation of the proper apportionments of the water of and from the Colorado River to which California may be entitled under the provisions of the Colorado River Compact, the Boulder Canyon Project Act and other applicable legislation and regulations, to the end that the same could be carried into each and all of the contracts between the United States and applicants for water contracts in California as a uniform clause; and

Whereas the parties hereto have fully considered their respective rights and requirements in cooperation with the

other water users and applicants and the Division of Water Resources aforesaid;

Now, Therefore, the parties hereto do expressly agree to the apportionments and priorities of water of and from the Colorado River for use in California as hereinafter fully set out and respectfully request the Division of Water Resources to, in all respects, recognize said apportionments and priorities in all matters relating to State authority and to recommend the provisions of Article I hereof to the Secretary of the Interior of the United States for insertion in any and all contracts for water made by him pursuant to the terms of the Boulder Canyon Project Act, and agree that in every water contract which any party may hereafter enter into with the United States, provisions in accordance with Article I shall be included therein if agreeable to the United States.

ARTICLE I.

The waters of the Colorado River available for use within the State of California under the Colorado River Compact and the Boulder Canyon Project Act shall be apportioned to the respective interests below named and in amounts and with priorities therein named and set forth, as follows:

Section 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said District as it now exists and upon lands between said District and the Colorado River, aggregating (within and without said District) a gross area of 104,500 acres, such waters as may be required by said lands.

Section 2. A second priority to Yuma Project of United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land

located in said project in California, such waters as may be required by said lands.

Section 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 3,850,000 acre feet of water per annum less the beneficial consumptive use under the priorities designated in Sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in Sections 1, 2 and 3 of this article shall not exceed 3,850,000 acre feet of water per annum.

Section 4. A fourth priority to the Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre feet of water per annum.

Section 5. A fifth priority, (a) to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre feet of water per annum and (b) to the City of San Diego and/or County of San Diego, for beneficial consumptive use, 112,000 acre feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 300,000 acre feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 7. A seventh priority of all remaining water available for use within California, for agricultural use in the Colorado River Basin in California, as said basin is designated on Map No. 23000 of the Department of the Interior, Bureau of Reclamation.

Section 8. So far as the rights of the allottees named above are concerned, the Metropolitan Water District of Southern California and/or the City of Los Angeles shall have the exclusive right to withdraw and divert into its aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said District and/or said City (not exceeding at any one time 4,750,000 acre feet in the aggregate) by reason of reduced diversions by said District and/or said City; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the

right to make similar arrangements with users in other states, without distinction in priority, and to determine the correlative relations between said District and/or said City and such users resulting therefrom.

Section 9. In addition, so far as the rights of the allottees named above are concerned, the City of San Diego and/or County of San Diego shall have the exclusive right to withdraw and divert into an aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said City and/or said County (not exceeding at any one time 250,000 acre feet in the aggregate) by reason of reduced diversions by said City and/or said County; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other states without distinction in priority, and to deterimne the correlative relations between the said City and/or said County and such users resulting therefrom.

Section 10. In no event shall the amounts allotted in this agreement to the Metropolitan Water District of Southern California and/or the City of Los Angeles be increased on account of inclusion of a supply for both said District and said City, and either or both may use said apportionments as may be agreed by and between said District and said City.

Section 11. In no event shall the amounts allotted in this agreement to the City of San Diego and/or to the County of San Diego be increased on account of inclusion of a supply for both said City and said County, and either or both may use said apportionments as may be agreed by and between said City and said County.

Section 12. The priorities hereinbefore set forth shall be in no wise affected by the relative dates of water contracts executed by the Secretary of the Interior with the various parties.

ARTICLE II.

That each and every party hereto who has heretofore filed an application or applications for a permit or permits to appropriate water from the Colorado River requests the Division of Water Resources to amend such application or applications as far as possible to bring it or them into conformity with the provisions of this agreement; and each and every party hereto who has heretofore filed a protest or protests against any such application or applications of other parties hereto does hereby request withdrawal of such protest or protests against such application or applications when so amended.

ARTICLE III.

That each and all of the parties to this agreement respectfully request that the contract for delivery of water between The United States of America and The Metropolitan Water District of Southern California under date of April 24, 1930 be amended in conformity with Article I hereof.

In Witness Whereof, the parties hereto have caused this agreement to be executed by their respective officers thereunto duly authorized, the day and year first above written. Executed in seven originals.

Recommended for execution.

PALO VERDE IRRIGATION DISTRICT
By ED. J. WILLIAMS,
ARVIN B. SHAW, JR.

IMPERIAL IRRIGATION DISTRICT
By CHAS. L. CHILDERS,
M. J. DOWD.

COACHELLA VALLEY COUNTY WATER DISTRICT
By THOS. C. YAGER,
ROBBINS RUSSEL.

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
By W. B. MATTHEWS,
C. C. ELDER.

CITY OF LOS ANGELES
By W. W. HURLBUT,
C. A. DAVIS.

CITY OF SAN DIEGO
By C. L. BYERS,
H. N. SAVAGE.

COUNTY OF SAN DIEGO
By H. N. SAVAGE,
C. L. BYERS.

APPENDIX NO. 11

PALO VERDE WATER DELIVERY CONTRACT WITH THE UNITED STATES

February 7, 1933

Approved as to form:

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
BOULDER CANYON PROJECT

United States and Palo Verde Irrigation District
Contract for Delivery of Water

(1) **This Contract,** made this 7th day of February nineteen hundred thirty-three, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the reclamation law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat. 1057), designated the Boulder Canyon Project Act, between **The United States of America,** hereinafter referred to as the United States, acting for this purpose by Ray Lyman Wilbur, Secretary of the Interior, hereinafter styled the Secretary, and **Palo Verde Irrigation District,** an irrigation district created, organized and existing under and by virtue of an act of the Legislature of the State of California approved June 21, 1923 (Chapter 452, Statutes of California, 1923), as amended, known as and designated "Palo Verde Irrigation District Act," with its principal office at Blythe, Riverside County, California; hereinafter referred to as the District;

Witnesseth:

Explanatory Recitals

(2) **Whereas,** for the purpose of controlling the floods, improving navigation and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters for reclamation of public lands and other beneficial uses exclusively within the United States, the Secretary, subject to the terms of the Colorado River Compact, is authorized to construct, operate and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon, adequate to create a storage reservoir of a capacity of not less than twenty million acre-feet of water; and

(3) **Whereas,** after full consideration of the advantages of both the Black Canyon and Boulder Canyon dam sites, the Secretary has determined upon Black Canyon as the site of the aforesaid dam, hereinafter styled the Hoover Dam, creating thereby a reservoir to be hereinafter styled the Boulder Canyon Reservoir; and

(4) **Whereas,** the District is desirous of entering into a contract for the delivery to it of water from Boulder Canyon Reservoir, and it is to the mutual interest of the parties hereto that such contract be executed and the rights of the District in and to waters of the river be hereby defined.

(5) **Now, Therefore,** in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to wit:

Delivery of Water by the United States

(6) The United States shall, from storage available in the Boulder Canyon Reservoir, deliver to the District each year at a point in the Colorado River immediately

above the District's point of diversion known as Blythe Intake, (or as relocated within two miles of the present intake) so much water as may be necessary to supply the District a total quantity, including all other waters diverted for use of the District from the Colorado River, in the amounts and with priorities in accordance with the recommendation of the Chief of the Division of Water Resources of the State of California, as follows: (Subject to availability thereof for use in California under the Colorado River Compact and the Boulder Canyon Project Act):

> The waters of the Colorado River available for use within the State of California under the Colorado River Compact and the Boulder Canyon Project Act shall be apportioned to the respective interests below named and in amounts and with priorities therein named and set forth, as follows:
>
> Section 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said District as it now exists and upon lands between said District and the Colorado River, aggregating (within and without said District) a gross area of 104,500 acres, such waters as may be required by said lands.
>
> Section 2. A second priority to Yuma Project of the United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land located in said project in California, such waters as may be required by said lands.
>
> Section 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irri-

gation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 3,850,000 acre-feet of water per annum less the beneficial consumptive use under the priorities designated in Sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in Sections 1, 2, and 3 of this article shall not exceed 3,850,000 acre-feet of water per annum.

Section 4. A fourth priority to the Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre-feet of water per annum.

Section 5. A fifth priority (a) to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre-feet of water per annum and (b) to the City of San Diego and/or County of San Diego, for beneficial consumptive use, 112,000 acre-feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adja-

cent to Palo Verde Irrigation District, for beneficial consumptive use, 300,000 acre-feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 7. A seventh priority of all remaining water available for use within California, for agricultural use in the Colorado River Basin in California, as said basin is designated on Map No. 23000 of the Department of the Interior, Bureau of Reclamation.

Section 8. So far as the rights of the allottees named above are concerned, the Metropolitan Water District of Southern California and/or the City of Los Angeles shall have the exclusive right to withdraw and divert into its aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said District and/or said City (not exceeding at any one time 4,750,000 acre-feet in the aggregate) by reason or reducing diversions by said District and/or said City; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between said District and/or said City and such users resulting therefrom.

Section 9. In addition, so far as the rights of the allottees named above are concerned, the City of San Diego and/or County of San Diego shall have the

exclusive right to withdraw and divert into an aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said City and/or said County (not exceeding at any one time 250,000 acre-feet in the aggregate) by reason of reduced diversions by said City and/or said County; provided, that accumulations shall be subject to such conditions as to accumulations, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between the said City and/or said County and such users resulting therefrom.

Section 10. In no event shall the amounts allotted in this agreement to the Metropolitan Water District of Southern California and/or the City of Los Angeles be increased on account of inclusion of a supply for both said District and said City, and either or both may use said apportionments as may be agreed by and between said District and said City.

Section 11. In no event shall the amounts allotted in this agreement to the City of San Diego and/or to the County of San Diego be increased on account of inclusion of a supply for both said City and said County, and either or both may use said apportionments as may be agreed by and between said City and said County.

Section 12. The priorities hereinbefore set forth shall be in no wise affected by the relative dates of

water contracts executed by the Secretary of the Interior with the various parties.

The Secretary reserves the right to, and the District agrees that he may, contract with any of the allottees above named in accordance with the above stated recommendation. The District reserves the right to establish, at any time, by judicial determination, its rights to divert and/or use water from the Colorado River. In the event the above stated recommendation as to the District is superseded by an agreement between all the above allottees or by a final judicial determination, the parties hereto reserve the right to further contract in accordance with such agreement or such judicial determination: *Provided*, that priorities numbered fourth and fifth shall not thereby be disturbed.

As far as reasonable diligence will permit said water shall be delivered as ordered by the District, and as reasonably required for potable and irrigation purposes within the areas for which the District is allotted water as described in the above stated recommendation. This contract is for permanent water service but is subject to the condition that Hoover Dam and Boulder Canyon Reservoir shall be used: First, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and satisfaction of perfected rights in pursuance of Article VIII of the Colorado River Compact; and third, for power. This contract is made upon the express condition and with the express covenant that the District and the United States shall observe and be subject to, and controlled by said Colorado River Compact in the construction, management and operation of Hoover Dam, and other works and the storage, diversion, delivery and use of water for the generation of power,

irrigation, and other purposes. The United States reserves the right to temporarily discontinue or reduce the amount of water to be delivered for the purpose of investigation, inspection, maintenance, repairs, replacements or installation of equipment and/or machinery at Hoover Dam, but as far as feasible the United States will give the District reasonable notice in advance of such temporary discontinuance or reduction. The United States, its officers, agents and employees shall not be liable for damages when, for any reason whatsoever, suspension or reductions in delivery of water occur. This contract neither prejudices nor admits any claim of the District on account of alleged changes in elevation of the river bed howsoever caused, or the effect of such alleged changes on the District's diversion of water delivered hereunder. This contract is without prejudice to any other or additional rights which the District may now have not inconsistent with the foregoing provisions of this article, or may hereafter acquire in or to the waters of the Colorado River.

Receipt of Water by District

(7) The District shall receive the water to be delivered to it by the United States under the terms hereof at the point of delivery above stated, and shall at its own expense convey such water to its distribution system, and shall perform all acts required by law or custom in order to maintain its control over such water and to secure and maintain its lawful and proper diversion from the Colorado River.

Measurement of Water

(8) The water to be delivered hereunder shall be measured at Blythe Intake by such measuring and controlling

devices or such automatic gauges or both, as shall be satisfactory to the Secretary. Said measuring and controlling devices, or automatic gauges, shall be furnished, installed and maintained by and at the expense of the District, but they shall be and remain at all times under the complete control of the United States, whose authorized representatives may at all times have access to them over the lands and rights-of-way of the District.

Record of Water Diverted

(9) The District shall make full and complete written reports as directed by the Secretary, on forms to be supplied by the United States, of all water diverted from the Colorado River, and the disposition thereof. The records and data from which such reports are made shall be accessible to the United States on demand of the Secretary.

No Charge for Delivery of Water

(10) The District shall not be required to pay to the United States any tolls, rates or charges of any kind for or on account of the storage or delivery of water hereunder.

Inspection by the United States

(11) The Secretary or his representatives, shall at all times have the right of ingress to and egress from all works of the District for the purpose of inspection, repairs and maintenance of works of the United States, and for all other proper purposes. The Secretary or his representatives shall also have free access at all reasonable times to the books and records of the District relating to the diversion and distribution of water delivered to it hereunder with the right at any time during office hours to make copies of or from the same.

Disputes or Disagreements

(12) Disputes or disagreements as to the interpretation or performance of the provisions of this contract shall be determined either by arbitration or court proceedings, the Secretary being authorized to act for the United States in such proceedings. Whenever a controversy arises out of this contract, and the parties hereto agree to submit the matter to arbitration, the District shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within thirty (30) days after their first meeting, such arbitrators not so elected, shall be named by the Senior Judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

Rules and Regulations

(13) There is reserved to the Secretary the right to prescribe and enforce rules and regulations not inconsistent with this contract, governing the diversion and delivery of water hereunder to the District and to other contractors. Such rules and regulations may be modified, revised and/or extended from time to time after notice to the District and opportunity for it to be heard, as may be deemed proper, necessary or desirable by the Secretary to carry out the true intent and meaning of the law and of this contract, or amendments thereof, or to protect the interests of the United States. The District hereby agrees that in the operation and maintenance of its diversion works at Blythe Intake, all such rules and regulations will be fully adhered to.

Agreement Subject to Colorado River Compact

(14) This contract is made upon the express condition and with the express understanding that all rights based upon this contract shall be subject to and controlled by the Colorado River Compact, being the compact or agreement signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes," which compact was approved by the Boulder Canyon Project Act.

Priority of Claims of the United States

(15) Claims of the United States arising out of this contract shall have priority over all others, secured or unsecured.

Contingent Upon Appropriations

(16) This contract is subject to appropriations being made by Congress from year to year of moneys sufficient to do the work contemplated hereby, and to there being sufficient moneys available in the Colorado River Dam fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents or employees, by reason of sufficient moneys not being so appropriated nor on account of there not being sufficient moneys in the Colorado River Dam fund to permit of said allotments. This agreement is also subject to the condition that if for any reason construction of Hoover Dam is not prosecuted to completion with reasonable diligence, then and in such event either party hereto may terminate its obligations hereunder upon

one (1) year's written notice to the other party hereto.

Rights Reserved Under Section 3737 Revised Statutes

(17) All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Remedies Under Contract Not Exclusive

(18) Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States or the District of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have. The waiver of a breach of any of the provisions of this contract shall not be deemed to be a waiver of any other provision hereof or of a subsequent breach of such provision.

Interest in Contract not Transferable

(19) No interest in this agreement is transferable, and no sublease shall be made, by the District without the written consent of the Secretary, and any such attempted transfer or sub-lease shall cause this contract to become subject to annulment, at the option of the United States.

Member of Congress Clause

(20) No Member of or Delegate to Congress or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA,
By RAY LYMAN WILBUR
Secretary of the Interior.

Attest:

NORTHCUTT ELY
RICHARD J. COFFEY
(Seal)

PALO VERDE IRRIGATION DISTRICT,
By L. A. HAUSER
President.

Attest:

O. W. MALMGREN
Assistant Secretary.

Approved as to form: Feb 7 - 1933
RAY LYMAN WILBUR
Ray Lyman Wilbur,
Secretary of the Interior.

State of California, County of Riverside—ss.

I, L. S. Shipley, Secretary of Palo Verde Irrigation District do hereby certify the attached is a true copy of a Contract for Delivery of Water between the United States Department of the Interior, Bureau of Reclamation and Palo Verde Irrigation District dated February 7, 1933 as filed in Minute Book 6 of Palo Verde Irrigation District records, pages 71 to 82 inclusive.

Dated: This 14th day of April, 1953.

[District Seal]

L. S. SHIPLEY,
L. S. Shipley,
Secretary

APPENDIX NO. 12

LAGUNA DAM DIVERSION CONTRACT for IMPERIAL IRRIGATION DISTRICT

Oct. 23, 1918

This Agreement, Made the 23rd day of October, A. D. 1918, by and between the **United States of America** acting in this behalf by Franklin K. Lane, Secretary of the Interior, hereinafter styled the United States, party of the first part, and the **Imperial Irrigation District,** a corporation duly organized and existing under and by virtue of the laws of the State of California, hereinafter styled the District, party of the second part,

Witnesseth:

2. **Whereas,** in connection with the Yuma project, Arizona-California, under the provisions of the Reclamation Act of June 17, 1902 (32 Stat., 388), and acts amendatory thereof and supplementary thereto, and particularly Section 25 of the Act of April 21, 1904 (33 Stat., 224), the United States Reclamation Service has constructed on ~~the~~ Colorado River a dam known as the Laguna Dam and certain auxiliary works, situate about ten miles northeast of Yuma, Arizona, together with a main supply canal extending from said dam southwesterly to a point known as Siphon Drop, situate in Section 10, Township 16 South, Range 22 East, S. B. M.; and

3. **Whereas,** under the aforesaid act of Congress, the United States contemplates the reclamation of 120,000 acres of irrigable land, more or less, under the Yuma project with water from Colorado River diverted at Laguna Dam, and the District desires to change its point

of diversion and secure the right to divert water at said dam for the irrigation of all irrigable land within the boundaries of the District; and

4. **Whereas,** the District is authorized under Chapter 160 of the Statutes of California, 1917, page 243, to contract with the United States for a supply of water for irrigation:

5. **Now, Therefore,** in consideration of the mutual covenants and agreements to be kept and performed and considerations to be paid, as hereinafter provided, it is hereby agreed as follows, to wit:

6. That immediately on the execution of this contract, the District shall proceed with diligence to secure data, which, together with other available data and data to be gathered under the existing cooperative contract dated February 16, 1918, will constitute a complete detailed survey with specifications and estimates of cost for the following:

(a) All necessary works and structures for the diversions of water from the Colorado River at Laguna Dam, thence through said existing main canal of the Yuma project, and sufficient enlargement and modification, including such works or devices as the Secretary of the Interior may require for the purpose of maintaining as near as may be the efficiency of the desilting and sluicing works at Laguna Dam, as such efficiency would be, were the Yuma project fully developed, to divert and carry all water needed by the District for the irrigation of its lands above referred to, without impairing the utilization of said Laguna Dam, main canal, and auxiliary works to the full extent necessary to irrigate the Yuma project when fully developed.

(b) A main canal, entirely within the United States, with all necessary appurtenant structures for the practical operation thereof, of sufficient capacity and proper construction to irrigate all lands in Imperial County, State of California, susceptible of economic irrigation from said canal. Such canal to connect with said main canal of the United States at a point described as Siphon Drop, and thence to connect with the canal system of said District in the United States upon the line located and approved as provided by the terms of the cooperative contract of February 16, 1918, above referred to.

7. Upon the approval by the Secretary of the Interior of the said survey, specifications, and estimates, District will provide for beginning and carrying to completion with due diligence, at the cost of the District, the work of construction and installation at the Laguna Dam and on the main canal, described in and contemplated by this agreement, and the District shall provide proper pecuniary support for the same in advance, in a manner satisfactory to the Secretary of the Interior. All such work shall be carried on in such manner as not to interfere with the proper operation of the Yuma project by the United States, and the District will promptly carry out any measures required by the United States or its authorized agents to avoid or relieve any interference with the delivery of water to the Yuma project during and due to such construction, and will save the United States harmless as to any claims for damages that may be presented by reason thereof.

8. All work of construction and installation, and the materials used therein, shall at all times be subject to the approval of the Secretary of the Interior, and be under the supervision and inspection of his authorized agents and

engineers, to the end that the works shall conform strictly with said surveys and specifications, and such modification thereof as the Secretary of the Interior may approve in writing. In case any of said works are constructed under contract made by the District and are not in accordance with said surveys and specifications, the Secretary may, at his option, replace such unsatisfactory construction work at the expense of the District, or stop said work of construction or cancel this contract, or resort to any other lawful remedy, and the decision of the Secretary of the Interior whether said surveys and specifications or modifications thereof have been complied with shall be final and conclusive. The District shall make complete detailed progress reports of the said construction work upon demand of the Secretary of the Interior. The cost of the inspection on the part of the United States provided by this section shall be paid by the District to the United States upon demand.

9. For the right to use the Laguna Dam, the main canal, and appurtenant structures, and divert water, as herein provided, the District agrees to pay to the United States the sum of $1,600,000 in twenty instalments, the first of which shall become due and payable December 31, 1919, and subsequent instalments annually thereafter. The first four instalments shall each be two per centum, the next two installments each four per centum, and the next fourteen each six per centum of the total amount: Upon failure of the District to make any such payment at the time and in the amount specified, then all rights under this contract shall be at an end, and all payments theretofore made shall become forfeited to the United States as liquidated damages; and as a further consideration for entering into this contract on the part of the

United States, the District hereby releases and relinquishes any and all claims whatsoever for said moneys or any portion thereof so forfeited and paid as liquidated damages; provided, that the Secretary of the Interior may in his discretion extend the time for any such payment upon the payment of seven per cent interest in advance.

10. Subject to the provisions of the Reclamation Act of June 17, 1902 (32 Stat., 388), and acts amendatory thereof and supplementary thereto, the United States shall have and retain perpetually the title to and the complete control, operation, and management of said Laguna Dam, auxiliary works, and enlarged main canal from the dam to and including the Siphon Drop with appurtenant structures as enlarged, including the diversion works at Siphon Drop for the diversion and delivery of water to the Yuma project and the District. The District shall pay to the United States, quarterly, on demand, April 1, July 1, October 1, and December 31, its proportionate share of the cost of operation and maintenance of said dam, auxiliary works, and enlarged main canal for the preceding quarter, such payment by the District to bear the same ratio to the total cost of such operation and maintenance as the amount of water received by the District at the point of delivery to the District's canal at Siphon Drop bears to the total amount of water carried in said main canal at that point plus the amount of water diverted from the canal above the Siphon Drop for use on the Yuma project lands; provided, that such extraordinary expense as may be caused by the operation of such desilting works as may be necessary to as nearly as may be maintained the efficiency of the desilting works at Laguna Dam, as such efficiency would be were the Yuma project fully developed, shall be borne by Imperial Irriga-

tion District. Such extraordinary expense, if any, shall be determined by the Secretary of the Interior. If the District fails to pay to the United States within thirty (30) days after rendition of bill, all operation and maintenance charges as determined by the Secretary of the Interior as they became due, the Secretary of the Interior, in addition to any other remedy which may be available to him for recovery of such charges, is authorized to shut off water from the intake of the District until such time as all sums due have been paid, with interest thereon at the rate of seven per cent per annum, from rendition of bill.

11. The United States reserves the right to arrange for the connection with and use of Laguna Dam on such terms as the Secretary of the Interior may deem expedient, by any other irrigation enterprise, district, corporation, or individual; also of the headworks and main canal and other governmentally constructed works and works constructed jointly by these parties, after proper enlargement and modification, on terms herein stipulated, without, however, impairing the utilization of said dam, canal, and other works to the extent necessary to irrigate the lands within the boundaries of Imperial Irrigation District.

12. The United States reserves the right to develop power with the water in the enlarged main canal down to and including Siphon Drop. All other power possibilities in the main canal down to and including some convenient power site near Pilot Knob shall be developed by the United States to the extent deemed expedient by the Secretary of the Interior, at the joint expense and for the joint benefit of the Yuma project and the Imperial Irrigation District as herein provided. The apportion-

ment of the cost of canal and headworks alterations and enlargement, and of canal extension from the Laguna Dam to the site selected for power development near Pilot Knob, shall be made to the United States (for the Yuma project) and to the Imperial Irrigation District, in the proportion that 2,000 second-feet bears to the total canal enlargement less 2,000 second-feet. The cost of constructing power plants, transmission lines and other power-plant accessories shall be also apportioned to Yuma project and the District, respectively, in the ratio that 8500 water horse power bears to the aggregate water horse power capacity of the plant installed.

The operation and maintenance of any such power plant or plants constructed for joint benefit and the sales of power therefrom shall be under the control of the Secretary of the Interior, and charges for commercial power shall be upon rules adopted by the Secretary of the Interior applying equally to both valleys. Such power as in the judgment of the Secretary of the Interior is necessary for pumping and other operation and maintenance purposes shall be delivered to the Yuma project and to the Imperial Irrigation District at the cost of development thereof, plus 10 per cent, said cost to include interest at 5 per cent per annum on the capital invested in power plants, transmission lines, and power plant accessories, and also a proportional part of the headworks and canal enlargement from Laguna Dam to Pilot Knob, determined by the relation 2,000 second-feet bears to the total enlarged canal capacity and reasonable depreciation, as may be determined by the Secretary of the Interior. The preference right to purchase power developed at the price herein specified shall be given over other uses of power, to the requirements of the Yuma

project (limited to an area not exceeding 120,000 acres) for power to be used in pumping irrigation water. The profits from power sales or power leases shall be divided between the Yuma project and the Imperial Irrigation District in the proportion of their respective investments in power plants, transmission lines, and power plant accessories, and in the canal and headworks alterations, canal enlargement, and canal extension from the Laguna Dam to and including the power house site near Pilot Knob, to be determined by the Secretary. In case capacity be also provided by enlargement for the irrigation of lands in the United States outside of the Imperial Irrigation District, then the cost of enlargement computed as above as chargeable to the Imperial Irrigation District shall be borne by such District and such other lands in the ratio of their respective irrigable acreages. The cost of any works used jointly by several irrigation enterprises below the point near Pilot Knob where power is developed shall be apportioned equitably by the Secretary of the Interior. No water shall be diverted for power purposes from such main canal below Siphon Drop at any time when such water shall be required for irrigation of lands being irrigated therefrom in Imperial County.

13. It is understood and agreed that the connection with Laguna Dam herein provided for is to be constructed as a part of an all-American canal, which the District hereby agrees to build at as early a date as possible and within reasonable time; and when the District shall have completed said all-American canal, it shall have the right to drop water at some other point than the vicinity of Pilot Knob for power development, and in this event agrees to place at the disposal of the United States at Pilot Knob, or some other point to be agreed upon, such

power in addition to that generated at Pilot Knob as in the judgment of the Secretary of the Interior is necessary for pumping and other irrigation operation and maintenance purposes of the Yuma project or any auxiliary thereof, not in excess of 8500 water horse power in the aggregate, at the cost of development thereof at the power house, plus 10 per cent, said cost to include interest at 5 per cent and reasonable depreciation as determined by the Secretary of the Interior. All power development, operation and maintenance of power plants on the all-American canal, and sales of power, shall be under the control of the Secretary of the Interior, and charges for commercial power shall be upon rules adopted by the Secretary of the Interior, applying equally to both Imperial and Yuma Valleys. The profits from commercial power shall be divided between the Imperial Irrigation District and the Yuma project in ratio of their respective investments in power, including the enlargements, alterations, and extensions of the headworks and main canal down to and including the power house site near Pilot Knob, plus investments in the power plants, power house, transmission lines, and other accessories. In dividing profits, the District shall be credited with the net revenue from the amount of power by which the total power output is increased by the all-American canal west of Pilot Knob, which shall be determined by the Secretary of the Interior. Power delivered to Imperial Irrigation District for pumping and other irrigation operation and maintenance purposes shall be delivered on the same terms as power delivered to the Yuma project for said purposes.

14. It is understood and agreed that the Secretary of the Interior shall control the division of water and shall divert for use of the Yuma project or any auxiliary

Changes in District Boundaries

Article 11. After the date of this contract no change shall be made in the boundaries of the District and the Board of Directors shall make no order changing the boundaries of the District, unless and until the Secretary shall assent to such change in writing, and such assent shall have been filed with the Board of Directors of the District; provided, however, that such assent is hereby given for the inclusion of all of the lands indicated on Exhibit "A" referred to in Article 34 hereof.

Terms of Payment

Article 12. The amount herein agreed to be paid to the United States shall be due and payable in not more than forty (40) annual installments commencing with the calendar year next succeeding the year when notice of completion of all work provided for herein is given to the District or under the provisions of Article 10 (a) hereof upon termination of work through failure of Congress to make necessary appropriations therefor. The first five of such annual installments shall each be one per centum (1%) of the amount herein agreed to be paid to the United States; the next ten of such installments shall each be two per centum (2%) of the amount herein agreed to be paid to the United States, and the remainder of such annual installments shall each be three per centum (3%) of the amount herein agreed to be paid to the United States. The sums payable annually as set forth above shall be divided into two equal semi-annual payments, payable on March first and September first of each year; provided, however, that if notice of the completion of work is given to the District subsequent to September first of any year the first semi-annual installment of charges hereunder shall be due and payable on March first of the second succeeding year.

thereof as heretofore or hereafter undertaken by the United States within the present boundaries of the United States and not exceeding 120,000 acres, sufficient water to secure the permanent and economical reclamation thereof; not exceeding, however, one-quarter of the water in the river above Laguna Dam. The foregoing applies only to the natural flow of the Colorado River, and not to storage water, which shall be delivered to the party entitled thereto.

The United States makes no guaranty or representation as to the quantity of water that may be available without storage for delivery to the District under this contract, and shall not be responsible for failure to deliver water under this contract caused by insufficient supply of water in the Colorado River, hostile diversion or drought, interruption made necessary by repairs, nor on account of any valid order or decree of a competent court; nor for any damages by floods, acts of hostility, or unavoidable circumstances, nor for loss of crops or other damage caused by non-delivery of water.

15. It is understood and agreed that the District shall have the right at any time to extend its boundaries within the United States and water additional lands upon payment of same amount per acre as irrigable lands in present Imperial Irrigation District are to pay under terms of this contract. This right to be also available on same conditions to Yuma project, additional to one hundred twenty thousand acres herein mentioned. All proceeds from payments on account of initial connection charges

assessed to and collected from such new lands shall be used under the direction of the Secretary of the Interior for the construction of storage works for the benefit of the lands contributing.

16. This contract shall not become effective until the same shall have been duly ratified and confirmed in accordance with law, by a vote of the people of the Imperial Irrigation District, and unless it shall be so ratified within six months from the date of execution hereof by the Secretary of the Interior, it shall become void and of no further effect.

17. In case of failure on the part of the District to provide for beginning the work of enlargement of the Yuma main canal within two years from the date hereof, the Secretary of the Interior shall have the right to abrogate this contract.

18. No Member of, or Delegate to Congress, or Resident Commissioner after his election or appointment, or either before or after he has qualified and during his continuance in office, and no officer, agent, or employee of the Government, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such incorporation or company, as provided in Section 116 of the Act of Congress approved March 4, 1909 (35 Stat., L. 1109).

In Witness Whereof, the parties hereto have caused the execution of these presents as of the day and year first above written.

THE UNITED STATES OF AMERICA
By FRANKLIN K. LANE
Secretary of the Interior.

IMPERIAL IRRIGATION DISTRICT
By LEROY HOLT
President.

[Seal]
Attest
J. H. M. IVER
Secretary.

APPENDIX NO. 13

WATER DELIVERY AND REPAYMENT CONTRACT UNITED STATES & IMPERIAL IRRIGATION DISTRICT

Dec. 1, 1932

Contract for Construction of Diversion Dam, Main Canal and Appurtenant Structures and for Delivery of Water

Article 1. **This Contract**, made this 1st day of Dec. nineteen hundred thirty-two, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Reclamation Law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat., 1057), designated the **Boulder Canyon Project Act**, between **The United States of America**, hereinafter referred to as the United States, acting for this purpose by Ray Lyman Wilbur, Secretary of the Interior, hereinafter styled the Secretary, and **Imperial Irrigation District**, an irrigation district created, organized and existing under and by virtue of the laws of the State of California, with its principal place of business at El Centro, Imperial County, California, hereinafter referred to as the District;

Witnesseth:

Explanatory Recitals

Article 2. **Whereas**, for the purpose of controlling the floods, improving navigation and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters for reclamation of public lands and other beneficial uses exclusively within the United States, the Secretary, subject to the terms of the

Colorado River Compact, is authorized to construct, operate and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon, adequate to create a storage reservoir of a capacity of not less than twenty-million acre-feet of water, and a main canal and appurtenant structures located entirely within the United States connecting the Laguna Dam, or other suitable diversion dam, which the Secretary is also authorized to construct if deemed necessary or advisable by him upon engineering or economic considerations, with the Imperial and Coachella Valleys in California, the expenditures for said main canal and appurtenant structures to be reimbursable as provided in the reclamation law; and

Article 3. **Whereas,** after full consideration of the advantages of both the Black Canyon and Boulder Canyon dam sites, the Secretary has determined upon Black Canyon as the site of the aforesaid dam, hereinafter styled the Hoover Dam, creating thereby a reservoir to be hereinafter styled the Boulder Canyon Reservoir; and

Article 4. **Whereas,** there are included within the boundaries of the District areas of private and public lands, and additional private and public lands will by appropriate proceedings be included within the District, and the District is desirous of entering into a contract for the construction of a suitable diversion dam and main canal and appurtenant structures, hereinafter respectively styled Imperial Dam and All-American Canal, located entirely within the United States connecting with the Imperial and Coachella Valleys, and for the delivery to the District of stored water from Boulder Canyon Reservoir; and

Article 5. **Whereas,** the Secretary has determined, upon engineering and economic considerations, that it is advisable to provide for the construction of such diversion dam and main canal and appurtenant structures, and has determined that the revenues provided for by this contract are adequate in his judgment to insure payment of all expenses of construction, operation and maintenance of the said diversion dam, main canal and appurtenant structures in the manner provided in the reclamation law;

Article 6. **Now, Therefore,** in consideration of the mutual convenants herein contained, the parties hereto agree as follows, to wit:

Construction by United States

Article 7. The United States will construct the Imperial Dam in the main stream of the Colorado River at the approximate location indicated on the map marked Exhibit "A" attached hereto and by this reference made a part hereof, and will also construct the All-American Canal and appurtenant structures to the Imperial and Coachella Valleys, the approximate location of said canal to be as shown on the aforesaid Exhibit "A". Said canal shall be constructed to a designed capacity of fifteen thousand (15,000) cubic feet of water per second from and including the diversion and desilting works at said dam to Syphon Drop; thirteen thousand (13,000) cubic feet of water per second from Syphon Drop to Pilot Knob, and ten thousand (10,000) cubic feet of water per second westerly from Pilot Knob to Engineer Station nineteen hundred and seven as said Engineer Station is indicated on said Exhibit "A". Other portions of said canal shall be constructed with such capacities as the Secretary may conclusively determine to be necessary or

advisable upon engineering or economic considerations to accomplish the ends contemplated by this contract; provided, however, that changes in capacities, locations, lengths and alignments, may be made during the progress of the work as may, in the opinion of the Secretary, whose opinion shall be final and binding upon the parties hereto, be expedient, economical, necessary or advisable, except the capacities above indicated from and including the diversion and desilting works at Imperial Dam to Engineer Station nineteen hundred and seven as hereinabove in this article referred to, which capacities may be changed only by mutual agreement between the Secretary and the District. The ultimate cost to the District of the aforesaid works shall in no event exceed the aggregate sum of thirty-eight million, five hundred thousand dollars ($38,500,000). Such cost shall include all expenses of whatsoever kind heretofore or hereafter incurred by the United States from the Reclamation Fund or the Colorado River Dam Fund in connection with, growing out of, or resulting from the consruction of said diversion dam, main canal and appurtenant structures, including but not limited to the cost of labor, materials, equipment, engineering, legal work, superintendence, administration, overhead, any and all costs arising from operation and maintenance of said dam, main canal and appurtenant structures prior to the time that said costs are assumed by the District, damage of all kinds and character and rights-of-way as hereinafter provided. The District hereby agrees to repay to the United States expenditures incurred on account of any and all damages due to the existence, operation or maintenance of the diversion dam and main canal, the incurrence of which increases expenditures by the United States beyond said sum of $38,500,000. The United States will invoke all legal

and valid reservations of rights-of-way under acts of Congress, or otherwise reserved or held by it, without cost to the District, except that the United States reserves the right where rights-of-way are thus acquired to reimburse the owners of such lands for the value of improvements which may be destroyed; and the District agrees that the United States may include such disbursements in the cost of the work to be performed hereunder. If rights-of-way are required over an existing project of the Bureau of Reclamation, such sum or sums as may be necessary to reimburse the United States on account of the construction charges allocated to irrigable areas absorbed in such rights-of-way shall also be considered as a part of and be included with other costs of the work to be performed hereunder. The District agrees to convey to the United States without cost, unencumbered fee simple title to any and all lands now owned by it, which, in the opinion of the Secretary may be required for right-of-way purposes for the aforesaid diversion dam, main canal and appurtenant structures. Where rights-of-way within the State of California are required for the construction of works herein provided for, and such rights-of-way are not reserved to the United States under acts of Congress, or otherwise, or the lands over which such rights-of-way are required are not then owned by the District, the District agrees that it will, upon request of the Secretary, acquire title to such lands, and in turn convey unencumbered fee simple title thereto to the United States at the actual cost thereof to the District, subject to the approval of such cost by the Secretary.

Assumption of Operation and Maintenance by District

Article 8. Upon sixty (60) days written notice from the Secretary of the completion of construction of the

aforesaid diversion dam, main canal and appurtenant structures, or of any major unit thereof, useful to the District, as determined by the Secretary, whose determination thereof shall be final and binding upon the parties hereto, the District shall assume the care, operation and maintenance of said diversion dam, main canal and appurtenant structures or major units thereof, including Laguna Dam, and thereafter the District shall at its own cost and without expense to the United States care for, operate and maintain the same in such manner that such works shall remain in as good and efficient condition and of equal capacity for the diversion, transportation and distribution of water as when received from the United States, reasonable wear and damage by the elements excepted. Operation and maintenance of Imperial Dam by the District is a part of the obligation undertaken under this contract by the District for the transportation and delivery of water to public and Indian lands of the United States, and shall not interfere with the control of such dam by the United States. The United States may, from time to time, in the discretion of the Secretary, resume operation and maintenance of said dam upon not less than 60-days' written notice and require reassumption thereof by the District on like notice. During such times, after completion, as the dam is operated and maintained by the United States, the District shall on March 1 of each year advance to the United States the estimated cost of operation and maintenance for the following twelve months, upon estimates furnished therefor on or before September 1st next preceding. After the care, operation and maintenance of the aforesaid works have been assumed by the District, the District shall save the United States, its officers, agents and employees harmless as to any and all injury and damage to persons and property which may

arise out of the care, operation and maintenance thereof. In the event the United States fails to complete the works herein contemplated and the District fails to elect to make use of the works theretofore partially or wholly constructed, the District shall be fully relieved of any and all responsibility for any further operation and maintenance of the works theretofore taken over by the District for that purpose and thereupon the District shall no longer be responsible for said maintenance or operation or damage to person or property which may arise therefrom.

Keeping Diversion Dam, Main Canal and Appurtenant Structures in Repair

Article 9. Except in case of emergency no substantial change in any of the works to be constructed by the United States and transferred to the District under the provisions hereof shall be made by the District without first having had and obtained the written consent of the Secretary and the Secretary's opinion as to whether any change in any such works is or is not substantial shall be conclusive and binding upon the parties hereto. The District shall promptly make any and all repairs to and replacements of all works constructed hereunder or transferred to it under the terms and conditions hereof, which, in the opinion of the Secretary, are deemed necessary for the proper operation and maintenance of such works. In case of neglect or failure of the District to make such repairs, the United States may, at its option, after reasonable notice to the District, cause such repairs to be made and charge the actual cost thereof, plus fifteen per centum (15%) to cover overhead and general expense, to the District. On or before September first of each calendar year the United States shall give written

notice to the District of the amount expended by the United States for repairs under this article during the twelve-month period immediately preceding. Such cost, plus overhead and general expense as stated above, shall be repaid by the District on March first immediately succeeding.

Agreement by District to Pay for Works Constructed by the United States

Article 10. (a) The District agrees to pay the United States the actual cost, not exceeding thirty-eight million five hundred thousand dollars ($38,500,000), incurred by the United States on account of the aforesaid works, subject, however, to the provisions of Article seven (7) hereof; provided, that should Congress fail to make necessary appropriations to complete the work herein provided for, then the Secretary may, at such reasonable time as he may consider advisable, after Congress shall have failed for five consecutive years to make the necessary appropriations which shall have been annually requested by the Secretary, give the District notice of the termination of work by the United States and furnish a statement of the amount actually expended by the United States thereon. Upon the receipt of such notice by the District the District shall be given two years from and after such receipt of notice to elect whether it will utilize said works theretofore constructed, or some particular part thereof. Such election on the part of the District shall be expressed by resolution of the Board of Directors submitted to the electorate of the District for approval or rejection in the manner provided by law for submission of contracts with the United States. If the District elects not to utilize, or fails within said two-year period to elect to utilize said works or some portion thereof, then the District shall

have no further rights therein and no obligations therefor. If the District elects to utilize said works or a portion thereof, then the reasonable value to the District of the works so utilized not exceeding the actual cost thereof to the United States shall be paid by the District under the terms of this contract: the first payment to be due and payable on the first day of March following the first day of September next succeeding the final determination of the reasonable value to the District of such works, in case no further work is done by the District. Should the District elect to complete the work contemplated by this contract, or some portion thereof, the first payment shall be due and payable on the first day of March following the first day of September next succeeding the date of final completion of the work by the District as determined by the Secretary. In determining the value of such works to the District there shall be taken into account, among other things, the method of financing required and cost of money, so that in no event shall all of the works contemplated by this contract cost the District more than they would have cost the District had they all been constructed by the United States under the terms of this contract. In the event of failure of the parties to agree as to the reasonable value to the District of the works which the District elects to use, the same shall be determined as provided in Article twenty-seven (27) hereof.

(b) The District as a whole is obligated to pay to the United States the full amount herein agreed upon regardless of the default or failure of any tract in the District, or of any landowner in the District, in the payment of the assessments levied by the District against such tract or landowner, and the District shall, when necessary, levy

and collect appropriate assessments to make up for the default or delinquency of any tract of land or of any landowner in the payment of assessments, so that in any event, and regardless of any defaults or delinquencies in the payment of any assessment or assessments, the amounts due or to become due the United States shall be paid to the United States by the District when due.

(c) The District shall be divided into units by the Board of Directors of the District. Said units shall be named, commencing with Imperial Unit, which unit shall comprise the lands of the District as of July 1, 1931. Each of the other units shall be as determined by the Board of Directors of the District and shall be described by legal description of the lands embraced therein or by designation of exterior boundaries or otherwise suitable for identification. Additional lands may be added to any unit herein or hereafter designated.

(d) The lands within each unit as hereinabove provided for will be benefited by the works to be constructed under this contract in the proportion that the area within such unit bears to the total area of the District and the costs of the said works, construction and otherwise, shall be apportioned to and paid by the lands within each unit in that proportion. In levying assessments or other charges to meet the cost of the said works, the Board of Directors of the District shall take into consideration payments to be made under this contract, with proper allowance for existing and anticipated delinquencies and redemptions, in order to provide sufficient funds to meet such payments as same become due and said board shall also take into account all sums expended or to be expended under the contract of October 23, 1918, for the right to connect with the Laguna Dam, the cost of all sur-

veys and investigations and other expenditures properly chargeable as a part of the cost of the said works but which are not included as a part of the construction cost thereof reimbursable to the United States under this contract. While the cost of the said works and other expenditures above mentioned shall be apportioned to the various units according to their respective areas; it is understood that the assessments or other charges to be imposed upon the lands within each respective unit shall be on an ad valorem or other basis as now or may hereafter be provided by law for assessment or imposition of other charges upon lands within irrigation districts. Rates of assessment or schedule in the various units from year to year or from time to time may be different or unequal as between the various units. If the amount collected from the lands in any unit in any year shall be less than the amount apportioned to such unit for that year for such purpose, the deficit shall nevertheless be charged to that unit and any fund or funds of the District from which money may be taken to make up such deficit in order to provide for the payment in full of the obligations of the District, shall be entitled to reimbursement for such money from subsequent collections of unpaid assessments or charges in said unit or from the amounts received for the redemption of lands sold for delinquent assessments or charges or from subsequent or additional levies made on the lands within that unit to provide for such reimbursement.

(e) In the event lands now or hereafter within Coachella Valley County Water District, a county water district organized and existing under the laws of the State of California, are included within Imperial Irrigation District, the said Coachella Valley County Water

District shal have the privilege, at its option, if, as and when authorized to do so by law, to pay to Imperial Irrigation District the total amount of any annual and/or special assessments levied by the last named District upon said lands or any installment of such assessments or any of the several individual assessments or installments thereof, in any case as the same become due and payable. The regular and lawful proceedings, rights and remedies of the last named District shall be in no manner impaired or affected by the provisions of this subarticle. The agreement in this subarticle contained is made expressly for the benefit of said Coachella Valley County Water District.

(f). If for any reason only a part of the works herein contemplated is constructed either by the United States or by the District, then the Board of Directors of the District shall, after public hearing, determine whether or not all of the lands in the District are benefited by the works constructed. If the Board shall find and declare that any certain lands within the District are not benefited by such construction, then no assessments shall thereafter be levied upon such lands for the purpose of meeting the obligations under this contract; and, for the purpose of this subarticle, no land shall be regarded as benefited by the construction of such works until the works contemplated by this contract as indicated on said Exhibit "A" from which water would reasonably be obtained for such lands shall have been constructed.

(g). The District shall have the right to refuse water service to any lands within the District which may at any time be delinquent in the payment of any assessment levied for the purpose of carrying out the provisions of this contract.

Operation and Maintenance Costs

Article 13. Each agency other than the District for which capacity is provided in the works to be constructed hereunder shall bear such proportionate part of the cost of operation and maintenance (including repairs and replacements) of the component parts thereof and of the Laguna Dam as may be determined by the Secretary to be equitable and just, but not less than an amount in proportion to the total amount as are the relative capacities provided in each component part for such agency and for all other agencies, including the District. Each agency shall advance to the District, on or before January first of each year, its proportionate share of the estimated cost for that year of operation and maintenance in accordance with a notice to be issued by the District, provided that payment shall in no event be due until thirty days after receipt of notice. Prior to March 1st of each year the District shall provide each agency with a statement showing in detail the costs for the previous year for operation and maintenance of the works on account of which such agency has made advances. Differences between actual costs and estimated costs shall be adjusted in next succeeding notices. Upon request of any agency both the advance notice of estimated costs and the subsequent statement of actual costs for each year shall be reviewed by the Secretary and his determination of proper charges shall be final. Such review shall not change the due date for advance payments as herein provided, and the cost of such review shall be borne equally by the requesting agency and the District. The District may, at its option, withhold the delivery of water from any agency until its proportionate share of the costs of operation and maintenance have been advanced or paid, as in this article provided.

Power Possibilities

Article 14. As one of the considerations for the partial termination of the contract of October 23, 1918, as provided for in Article sixteen (16) hereof, the power possibilities on the All-American Canal down to and including Syphon Drop with water carried for the benefit of the Yuma Project as provided for in Article fifteen (15) hereof, are hereby reserved to the United States. Subject to the foregoing provisions of this Article and the participation by other agencies as provided for in Article twenty-one (21) hereof, the District shall have the privilege at any time of utilizing by contract or otherwise such power possibilities as may exist upon said canal. The net proceeds as hereinafter defined in Article thirty-two (32) hereof and as determined by the Secretary for each calendar year from any such power development shall be paid into the Colorado River Dam Fund on March first of the next succeeding calendar year and be credited to the District on this contract until the District shall have paid thereby and/or otherwise an amount of money equivalent to that herein agreed to be paid to the United States. Thereafter such net power proceeds shall belong to the District. It is agreed that in the event the net power proceeds in any calendar year, creditable to the District, shall exceed the annual installment of charges payable under this contract during the then current calendar year, the excess of such net power proceeds shall be credited on the next succeeding unpaid installment to become due from the District under this contract.

Diversion and Delivery of Water for Yuma Project

Article 15. As a further consideration for the partial termination of the contract of October 23, 1918, as pro-

vided in Article sixteen (16) hereof, the District hereby agrees to divert at the Imperial Dam, and to transport and deliver at Syphon Drop and/or such intermediate points as may be designated by the Secretary, the available water to which the Yuma Project (situated entirely within the United States and not exceeding in area 120,000 acres plus lands lying between the project levees and the Colorado River as such levees are located in 1931) is entitled, not exceeding two thousand (2,000) second-feet of water in the aggregate, or such part thereof as the Secretary may direct, for the use and benefit of said project, including the development of power at Syphon Drop, such water to be diverted, transported and delivered continuously in so far as reasonable diligence will permit provided, however, that water shall not be diverted, transported or delivered for the Yuma Project when the Secretary notifies the District that said project for any reason may not be entitled thereto; provided, further, that the District shall divert, transport and deliver such water in excess of requirements for irrigation or potable purposes, as determined by the Secretary, on the Yuma Project as so limited, only when such water is not required by the District for irrigation or potable purposes. The diversion, transportation and delivery of water for the Yuma Project as aforesaid shall be without expense to the United States or its successors in control of said project, as to capital investment required to provide facilities for such diversion and transportation of water, except such checks, turnouts and other structures required for delivery from said canal.

Contract of October 23, 1918

Article 16. That certain contract between the United States of America and the District, bearing date of

October 23, 1918, providing for a connection with Laguna Dam, is hereby terminated, except as to the provisions of Article nine (9) thereof, and as one of the considerations for the partial termination of said contract by the United States, the District hereby promises and agrees to make full payment to the United States of all unpaid installments of charges as provided in Article nine (9) of said agreement, anything in said contract to the contrary notwithstanding. As an additional consideration for the partial termination of said contract of October 23, 1918, the District hereby promises and agrees to furnish to the United States or its successors in interest in the control, operation and maintenance of the Yuma Project, from any power development on the All-American Canal at or near Pilot Knob, up to but not to exceed four thousand horsepower of electrical energy for use by the agency in charge of project operations for irrigation and drainage pumping purposes and necessary incidental use on said Yuma Project, such power to be furnished at cost (including overhead and general expense) plus ten per cent; provided, however, that the District shall not be required to furnish such power at or near Pilot Knob except at such times as all power feasible of development at Syphon Drop or developed elsewhere within a radius of 40 miles from the city of Yuma for the benefit of the Yuma Project is being used for project operations as in this article specified.

Delivery of Water by United States

Article 17. The United States shall, from storage available in the reservoir created by Hoover Dam, deliver to the District each year at a point in the Colorado River immediately above Imperial Dam, so much water as may be necessary to supply the District a total quantity, in-

cluding all other waters diverted for use within the District from the Colorado River, in the amounts and with priorities in accordance with the recommendation of the Chief of the Division of Water Resources of the State of California, as follows: (Subject to availability thereof for use in California under the Colorado River Compact and the Boulder Canyon Project Act):

The waters of the Colorado River available for use within the State of California under the Colorado River Compact and the Boulder Canyon Project Act shall be apportioned to the respective interests below named and in amounts and with priorities therein named and set forth, as follows:

Section 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said District as it now exists and upon lands between said District and the Colorado River, aggregating (within and without said District) a gross area of 104,500 acres, such waters as may be required by said lands.

Section 2. A second priority to Yuma Project of the United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land located in said project in California, such waters as may be required by said lands.

Section 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adjacent to Palo Verde Irrigation District, for beneficial

consumptive use, 3,850,000 acre-feet of water per annum less the beneficial consumptive use under the priorities designated in Sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in Sections 1, 2 and 3 of this article shall not exceed 3,850,000 acre-feet of water per annum.

Section 4. A fourth priority to the Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre-feet of water per annum.

Section 5. A fifth priority (a) to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre-feet of water per annum and (b) to the City of San Diego and/or County of San Diego, for beneficial consumptive use, 112,000 acre-feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa," adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 300,000 acre-feet of water per

annum. The rights designated (a) and (b) in this section are equal in priority.

Section 7. A seventh priority of all remaining water available for use within California, for agricultural use in the Colorado River Basin in California, as said basin is designated on Map No. 23000 of the Department of the Interior, Bureau of Reclamation.

Section 8. So far as the rights of the allottees named above are concerned, the Metropolitan Water District of Southern California and/or the City of Los Angeles shall have the exclusive right to withdraw and divert into its aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said District and/or said City (not exceeding at any one time 4,750,000 acre-feet in the aggregate) by reason of reduced diversions by said District and/or said City; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between said District and/or said City and such users resulting therefrom.

Section 9. In addition, so far as the rights of the allottees named above are concerned, the City of San Diego and/or County of San Diego shall have the exclusive right to withdraw and divert into an aqueduct any water in Boulder Canyon Reservoir accu-

mulated to the individual credit of said City and/or said County (not exceeding at any one time 250,000 acre-feet in the aggregate) by reason of reduced diversions by said City and/or said County; provided, that accumulations shall be subject to such conditions as to accumulations, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between the said City and/or said County and such users resulting therefrom.

Section 10. In no event shall the amounts allotted in this agreement to the Metropolitan Water District of Southern California and/or the City of Los Angeles be increased on account of inclusion of a supply for both said District and said City, and either or both may use said apportionments as may be agreed by and between said District and said City.

Section 11. In no event shall the amounts allotted in this agreement to the City of San Diego and/or to the County of San Diego be increased on account of inclusion of a supply for both said City and said County, and either or both may use said apportionments as may be agreed by and between said City and said County.

Section 12. The priorities hereinbefore set forth shall be in no wise affected by the relative dates of water contracts executed by the Secretary of the Interior with the various parties.

The Secretary reserves the right to, and the District agrees that he may, contract with any of the allottees above named in accordance with the above stated recommendation, or, in the event that such recommendation as to Palo Verde Irrigation District is superseded by an agreement between all the above allottees or by a final judicial determination, to contract with the Palo Verde Irrigation District in accordance with such agreement of determination; *Provided*, that priorities numbered fourth and fifth shall not thereby be disturbed.

As far as reasonable diligence will permit said water shall be delivered as ordered by the District, and as reasonably required for potable and irrigation purposes within the boundaries of the District in the Imperial and Coachella Valleys in California. This contract is for permanent water services but is subject to the condition that Hoover Dam and Boulder Canyon Reservoir shall be used: First, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and satisfaction of perfected rights in pursuance of Article VIII of the Colorado River Compact; and third, for power. This contract is made upon the express condition and with the express covenant that the District and the United States shall observe and be subject to, and controlled by said Colorado River Compact in the construction, management and operation of Hoover Dam, Imperial Dam, All-American Canal, and other works and the storage, diversion, delivery and use of water for the generation of power, irrigation, and other purposes. The United States reserves the right to temporarily discontinue or reduce the amount of water to be delivered for the purpose of investigation, inspection, maintenance, repairs, replacements or installation of equipment and/or machinery at Hoover

Dam, but as far as feasible the United States will give the District reasonable notice in advance of such temporary discontinuance or reduction. The United States, its officers, agents and employees shall not be liable for damages when, for any reason whatsoever, suspension or reductions in delivery of water occur. This contract is without prejudice to any other or additional rights which the District may now have not inconsistent with the foregoing provisions of this article, or may hereafter acquire in or to the waters of the Colorado River. Nothing in this contract shall be construed to prevent the District from diverting water to the full capacity of the All-American Canal if and when water over and above the quantity apportioned to it hereunder is available, and no power development at Imperial and/or Laguna Dam shall be permitted to interfere with such diversion by the District, but, except as provided in Article twenty-one (21), water shall not be diverted, transported or carried by or through the works to be constructed hereunder for any agency other than the District, except by written consent of the Secretary.

Measurement of Water

Article 18. The water which the District receives under the apportionment as provided in Article seventeen (17) hereof shall be measured at such point or points on the canal as may be designated by the Secretary. Measuring and controlling devices shall be furnished and installed by the United States as a part of the work provided for herein, but shall be operated and maintained by and at the expense of the District. They shall be and remain at all times under the complete control of the United States, whose authorized representatives may at all times have access to them over the lands and rights-of-way of the District.

Record of Water Diverted

Article 19. The District shall make full and complete written reports as directed by the Secretary, on forms to be supplied by the United States, of all water diverted from the Colorado River, and the disposition thereof. The records and data from which such reports are made shall be accessible to the United States on demand of the Secretary.

Refusal of Water in Case of Default

Article 20. The United States reserves the right to refuse to deliver water to the District in the event of default for a period of more than twelve (12) months in any payment due the United States under this contract, or, in the discretion of the Secretary to reduce deliveries in such proportion as the amount in default by the District bears to the total amount due. It is understood, however, that the provisions of this article shall not relieve the District of its obligation to divert, transport and deliver water for the use and benefit of the Yuma Project as herein elsewhere provided, nor shall it relieve the District of its obligation hereunder to divert, transport and deliver water for the use and benefit of other agencies with whom the United States may contract for the diversion, transportation and delivery of water through or by the works to be constructed under the terms hereof. The United States further reserves the right to forthwith assume control of all or any part of the works to be constructed hereunder and to care for, operate and maintain the same, so long as the Secretary deems necessary or advisable, if, in his opinion, which shall be final and binding upon the parties hereto, the District does not carry out the terms and conditions of this contract to their full

extent and meaning. In such event the District's pro rata share of the actual cost of such care, operation and maintenance by the United States shall be repaid to the United States, plus fifteen per centum (15%) to cover overhead and general expense, on March first of each year immediately succeeding the calendar year during which the works to be constructed hereunder are operated and maintained by the United States. Nothing herein contained shall relieve the District of the obligation to pay in any event all installments and penalties provided in this contract.

Use of Works by the United States and Others

Article 21. The United States also reserves the right to, and the District agrees that it may, at any time prior to the transfer of constructed works to the District for operation and maintenance, increase the capacity of the said works and contract for such increased capacity with other agencies for the delivery of water for use in the United States; provided, however, that such other agencies shall not thereby be entitled to participate in power development on said All-American Canal, except at points where and to the extent that the water diverted and/or carried for them contributes to the development of power. In the event other agencies thus contract with the United States, each of such agencies shall assume such proportion of the total cost of said works to be used jointly by such agency and the District, including Laguna Dam, as the Secretary may determine to be equitable and just but not less than the proportion that the capacity provided for such agency in such works bears to the total capacity thereof (except in that part thereof above Syphon Drop including Laguna Dam, in which part the proportion which such other agency shall assume shall be not less than the

proportion that the capacity provided for such agency therein bears to the total capacity thereof less the capacity to be provided hereunder without cost to and for the Yuma Project) and the District's financial obligations under this contract shall be adjusted accordingly. In no event shall construction costs chargeable to the District be increased by reason of additional capacity being provided for any such agency or agencies or contract or contracts having been made with same. Any such agency thus contracting shall also be required to reimburse the District in such amounts and at such times as the Secretary may determine to be equitable and just for payments theretofore made by the District for the right to use Laguna Dam.

Title to Remain in the United States

Article 22. Title to the aforesaid Imperial Dam and All-American Canal to be constructed by the United States under the terms and conditions hereof, shall be and remain in the United States notwithstanding transfer of the care, operation and maintenance thereof to the District; provided, however, that the Secretary may, in his discretion, when repayments to the United States of all moneys advanced shall have been made, transfer the title to said main canal and appurtenant structures, except the diversion dam and the main canal and appurtenant structures down to and including Syphon Drop, to the District or other agencies of the United States having a beneficial interest therein in proportion to their respective capital investments under such form or organization as may be acceptable to him.

Assessment of Public Land

Article 23. The following lands are hereby designated as subject to the provisions of the act of August 11, 1916

(39 Stat., 506), and the act of May 15, 1922 (42 Stat., 541):

(a) All unentered public lands and entered lands for which no final certificate has been issued, situate within the District at the date hereof; and when included within the District, unentered public lands and entered lands for which no final certificate has been issued, hereafter to be included within the District pursuant to this contract, all described in a statement marked "Exhibit 'B'" attached hereto and by reference thereto made a part hereof; and

(b) unentered public lands and entered lands for which no final certificate has been issued not so described but hereafter annexed to the District, upon the Secretary's consenting, in the case of such lands hereafter annexed to the District, to assessment hereunder of such added lands, which consent will be requested by resolution of the Board of Directors of the District and will be manifested by letter filed with the District, a copy of such letter to be filed also with the General Land Office, and a copy with the proper local Land Office.

Within a reasonable time, to be determined by the Secretary, from the date water is available for and can be delivered to any public lands within the boundaries of the District, such lands shall be opened to entry.

Rules and Regulations

Article 24. There is reserved to the Secretary the right to prescribe and enforce rules and regulations not inconsistent with this contract, governing the diversion and delivery of water hereunder to the District and to other contractors. Such rules and regulations may be modified, revised and/or extended from time to time after

notice to the District and opportunity for it to be heard, as may be deemed proper, necessary or desirable by the Secretary to carry out the true intent and meaning of the law and of this contract, or amendments thereof, or to protect the interests of the United States. The District hereby agrees that in the operation and maintenance of the Imperial Dam and All-American Canal, all such rules and regulations will be fully adhered to.

Inspection by the United States

Article 25. The Secretary may cause to be made from time to time a reasonable inspection of the works constructed by the United States under the terms hereof to the end that he may ascertain whether the terms of this contract are being satisfactorily executed by the District. The actual expense of such inspection in any calendar year, as found by the Secretary, shall be paid by the District to the United States on March first of each year immediately following the year in which such inspection is made, and upon statement to be furnished by the Secretary. The Secretary or his representative shall at all times have the right of ingress to and egress from all works of the District for the purpose of inspection, repairs and maintenance of works of the United States, and for all other purposes.

Access to Books and Records

Article 26. The officials or designated representatives of the District shall have full and free access to the books and records of the United States, so far as they relate to the matters covered by this contract, with the right at any time during office hours to make copies of and from the same; and the Secretary shall have the same right in respect of the books and records of the District.

Disputes or Disagreements

Article 27. Disputes or disagreements as to the interpretation or performance of the provisions of this contract, except as otherwise provided herein, shall be determined either by arbitration or court proceedings, the Secretary being authorized to act for the United States in such proceedings. Whenever a controversy arises out of this contract, and the parties hereto agree to submit the matter to arbitration, the District shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within thirty (30) days after their first meeting, such arbitrators not so elected, shall be named by the Senior Judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

Interest and Penalties

Article 28. No interest shall be charged on any installments of charges due from the District hereunder except that on all such installments or any part thereof, which may remain unpaid by the District to the United States after the same become due, there shall be added to the amount unpaid a penalty of one-half of one per centum (½%) and a like penalty of one-half of one per centum (½%) of the amount unpaid shall be added on the first day of each month thereafter so long as such default shall continue.

Agreement Subject to Colorado River Compact

Article 29. This contract is made upon the express condition and with the express understanding that all

rights based upon this contract shall be subject to and controlled by the Colorado River Compact, being the compact or agreement signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes," which compact was approved by the Boulder Canyon Project Act.

Application of Reclamation Law.

Article 30. Except as provided by the Boulder Canyon Project Act, the reclamation law shall govern the construction, operation and maintenance of the works to be constructed hereunder.

Contract to Be Authorized by Election and Confirmed by Court

Article 31. The execution of this contract by the District shall be authorized by the qualified electors of the District at an election held for that purpose. Thereafter, without delay, the District shall prosecute to judgment proceedings in court for a judicial confirmation of the authorization and validity of this contract. The United States shall not be in any manner bound under the terms and conditions of this contract unless and until a confirmatory final judgment in such proceedings shall have been rendered, including final decision, or pending appellate action if ground for appeal be laid. The District shall without delay and at its own cost and expense furnish the United States for its files, copies of all proceedings relating to the election upon this contract and the confirmation

proceedings in connection therewith, which said copies shall be properly certified by the Clerk of the Court in which confirmatory judgment is obtained.

Method of Determining Net Power Proceeds

Article 32. In determining the net proceeds for each calendar year from any power development on the All-American Canal, to be paid into the Colorado River Dam Fund as provided in Article fourteen (14) hereof, there shall be taken into consideration all items of cost of production of power, including but not necessarily limited to amortization of and interest on capital investment in power development, replacements, improvements, and operation and maintenance, if any. Any other proper factor of cost not here expressly enumerated may be taken into account in determining the net proceeds.

Contingent Upon Appropriations

Article 33. This contract is subject to appropriations being made by Congress from year to year of moneys sufficient to do the work provided for herein, and to there being sufficient moneys available in the Colorado River Dam Fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents or employees, by reason of sufficient moneys not being so appropriated nor on account of there not being sufficient moneys in the Colorado River Dam Fund to permit of said allotments. If more than three years elapse after this contract becomes effective and before appropriations are available to permit the United States to make expenditures hereunder, the District may, at its option, upon giving sixty (60) days written notice to the Secretary, cancel this contract. Such

option shall be expressed by vote of the electors of the District with the same formalities as required for the authorization of contracts with the United States.

Inclusion of Lands

Article 34. (a) In this article where the words "area to be included" are used such words shall be understood to mean those certain areas shown on Exhibit "A" and bounded by the lines indicated thereon as "Boundary of Additional Areas in Proposed Enlarged Imperial Irrigation District."

(b) The District agrees to change its boundaries within a reasonable time after the execution of this contract, in the manner provided by law, so as to include within the District the public lands of the United States in Imperial County lying south of the northerly boundary line of Township eleven (11) South of the San Bernardino Base Line, and within the area to be included.

(c) The District further agrees to change its boundaries, if lawful petition or petitions therefor be presented to its Board of Directors prior to the first day of January, 1940, so as to include within the District any privately owned and/or entered lands for which final certificate has not been issued, in Imperal County, lying south of the northerly boundary line of Township eleven (11) South of the San Bernardino Base Line, and within the area to be included.

(d) The District further agrees to change its boundaries, in the manner provided by law, so as to include within

the District the lands lying north of the northerly boundary line of Township eleven (11) South of the San Bernardino Base Line, and within the area to be included, if lawful petition or petitions sufficient in all respects for such inclusion be presented to its Board of Directors at any time prior to the expiration of thirty days from and after the date on which a confirmatory judgment, as required by Article 31 hereof, declaring this contract in all respects valid and duly authorized, shall have become final; provided, however, that the District shall not change its boundaries so as to include any of said lands lying north of the northerly boundary line of said Township eleven (11) South, unless the said petition or petitions so filed shall be sufficient to lawfully include in the aggregate not less than ninety (90%) per centum (the areas to be approved by the Secretary) of the said lands, exclusive of the Dos Palmas area and exclusive of Indian lands and public lands of the United States. Within a reasonable time after the inclusion of such lands pursuant to said petition or petitions the District further agrees to change its boundaries, in the manner provided by law, so as to also include within the District the public lands of the United States within the area to be included and lying north of the northerly boundary line of said Township eleven (11) South.

(e) Whenever any of the lands within the area to be included are included within the District the inclusion thereof shall be made upon conditions substantially as hereinafter contained (filling blank spaces with appro-

priate unit names as may be required and other proper designations), and the Secretary, on behalf of the United States, hereby consents to such inclusion and conditions, which conditions are as follows:

CONDITION No. 1

Definitions

In the following conditions, the word "District" shall mean Imperial Irrigation District; the word "Board" shall mean the Board of Directors of Imperial Irrigation District; the words "All-American Canal Contract" shall mean that certain contract between the United States of America by Ray Lyman Wilbur, Secretary of the Interior, and Imperial Irrigation District, dated....., and
(date of this contract)
entitled "Contract for construction of diversion dam, main canal and appurtenant structures and for Delivery of Water," authorized by the electors of Imperial Irrigation District at an election held.....
.....; and the words "distribu-
(date of this contract authorized)
tion system" shall mean the secondary main canal and lateral system or systems, including all canals, pipe lines, structures, pumping plants, machinery and incidental works necessary or convenient under the rules and regulations of Imperial Irrigation District for delivery of water for irrigation and domestic purposes from the All-American Canal, as the same is shown on Exhibit "A" attached to and made a part of said All-American Canal Contract, to lands in .....Unit as such unit is
(name)
hereinafter defined.

CONDITION No. 2

Division Into Units

For the purposes of these conditions and in compliance with the terms of the All-American Canal Contract, the District shall be divided into units, commencing with Imperial Unit, which unit shall comprise the lands within the District as of July 1, 1931, and such other lands as may at any time or from time to time be added thereto in the discretion of the Board..... Unit shall
(name)
comprise .....
.....
.....
(here shall follow description or other designation of the unit involved as provided by Article 10 (c) of the All-American Canal Contract).

CONDITION No. 3

All-American Canal Contract

The lands within.....
(name)
Unit shall be, in all respects, bound by all of the terms and conditions of the All-American Canal Contract and particularly by Article 10 thereof, and shall pay, as a unit obligation, the several amounts and in the manner and at the times provided for in said contract, as the Board my determine; provided, that said lands in .....
(name)
.....Unit shall pay to the District, as a unit obligation, that porportion of the total sum paid by the District to the United States under that certain contract of October 23, 1918, between

the United States and the District for the right to connect with Laguna Dam, prior to the payment of the first installment on said contract of October 23, 1918, for which said land shall be assessed, that the total area of.....Unit
(name)
bears to the total area of the District at the date notice of completion of all work provided for in the All-American Canal Contract shall be given, pursuant to Article 12 thereof, to the District. Said sum shall be divided into ten annual installments, as nearly equal as may be practicable, and paid, commencing with the calendar year next succeeding the calendar year when such notice of completion shall be so given.

CONDITION No. 4

Distribution System

The lands within.....Unit
(name)
shall pay, as a unit obligation, the total capital cost of any distribution system which may be constructed by or under authority of the District, to serve the lands within said.....Unit or any
(name)
part thereof. When said distribution system, or any part thereof, is constructed, or an obligation therefor is incurred, said lands shall pay annually, such sum or sums as may be necessary to meet the then current obligation therefor, whether for principal or interest or both, or otherwise. Said distribution system shall at all times be and remain the exclusive property of the District unless the District shall provide otherwise, in the discretion of the Board. When funds for the construction of said distribution system

are made available, the District shall construct or authorize the same to be constructed, as the Board may determine.

CONDITION No. 5

Pumping Costs

The Board shall provide by rule for the payment by the lands served of the cost of power required to pump water to or for the use of such lands.

CONDITION No. 6

Charges to be Part of Assessment

Any and all charges against or upon the lands within.....Unit provided
(name)
for by the foregoing conditions unless otherwise collected from the lands within.....
(name)
Unit shall be a part of, but in addition to, the annual assessment upon the said lands for other District purposes and payable in installments accordingly, and shall constitute an additional annual charge upon the land, and the Board shall levy such assessment upon the said lands upon an ad valorem or other basis as now or hereafter provided by law, in an amount or in amounts sufficient to raise the several sums provided for from the said lands within .....Unit; provided, that
(name)
for the protection of the interests and security of the United States, pending completion of construction of the All-American Canal to such extent that water is available in said canal for use in.....

.....Unit, the annual assessment
(name)
upon the lands within said unit for District purposes shall be limited to raise only the just proportion chargeable to said unit for expenditures connected with or applying to the All-American Canal and/or arising from expenditures made in or on behalf of said unit.

(f) In the event petition or petitions for inclusion, pursuant to this article, of any privately-owned lands or entered lands for which no final certificate has at the time been issued, lying south of the northerly boundary line of Township eleven (11) South of the San Bernardino Base Line, and within the area to be included, be presented subsequent to the expiration of thirty days from and after the date on which a confirmatory judgment, as required by Article 31 hereof, declaring this contract in all respects valid and duly authorized, shall have become final, then the District may in the discretion of the Board of Directors require as a condition precedent to the granting of said petition or petitions and in addition to the other conditions above named, that the petitioners shall pay to the District such respective sums as nearly as the same can be estimated (the amounts to be determined by the Board) as the holders of title or evidence of title to the several parcels of land involved in said petition or petitions and their grantors would have been required to pay to the District as assessments had such lands been included within the District at the expiration of said 30-day period, or such portion of said sum as the Board of Directors may at the time determine. The provisions of this sub-article shall also apply to all lands lying north of the northerly boundary line of said Town-

ship eleven (11) South, and within the area to be included, provided the ninety per centum (90%) petition required by sub-article (d) of this article is filed prior to the expiration of said 30-day period.

(g) In the event the petition or petitions for inclusion of the said lands lying north of the northerly boundary line of said Township eleven (11) South of the San Bernardino Base Line, as in sub-article (d) above provided are not made and filed with the Board of Directors of the District prior to the expiration of thirty days from and after the date on which a confirmatory judgment, as required by Article 31 hereof, declaring this contract in all respects valid and duly authorized, shall have become final, as hereinabove provided, then said lands shall not thereafter be included within the District under the provisions of this contract and the works referred to in this contract north of the northerly boundary line of said Township eleven (11) South of the San Bernardino Base Line shall not be constructed under this contract and the District shall be relieved from all responsibility therefor, anything in this contract to the contrary notwithstanding, and the capacities in the works to be constructed under this contract, shall be reduced accordingly.

(h) Nothing contained in this contract shall impair any right or remedy of any person entitled to object or protest against the inclusion within the District of any particular tract or tracts of land, or the conditions imposed by the Board of Directors of the District on the inclusion of any particular tract or tracts, nor impair the power of the Board to hear and determine any such objections or protests, but if in the opinion of the Secretary such determination by the Board substantially impairs the interests of, or security otherwise available to,

the United States, under this contract, then and in such event the United States shall be under no obligation to proceed further under this contract. In the event any petition or petitions be filed for the inclusion within the District of any lands within the area to be included and, after the conditions set out in sub-article (e) of this article, or conditions less burdensome, are imposed thereon, a sufficient majority statement or statements in writing be filed objecting to the inclusion of such lands with the conditions imposed thereon, so that the Board of Directors is required to dismiss such petition or petitions, then it shall be regarded as if such petition or petitions had not been filed.

Priority of Claims of the United States

Article 35. Claims of the United States arising out of this contract shall have priority over all others, secured and unsecured.

Rights Reserved under Section 3737 Revised Statutes

Article 36. All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Remedies under Contract not Exclusive

Article 37. Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States or the District of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have. The waiver of a breach of any of the provisions of this contract shall not be deemed to be a

waiver of any other provision hereof or of a subsequent breach of such provision.

Interest in Contract not Transferable

Article 38. No interest in this contract is transferable by the District to any other party, and any such attempted transfer shall cause this contract to become subject to annulment at the option of the United States.

Member of Congress Clause

Article 39. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written.

Attest:
NORTHCUTT ELY
ELWOOD MEAD

Attest:
F. D. McIVER
Secretary.

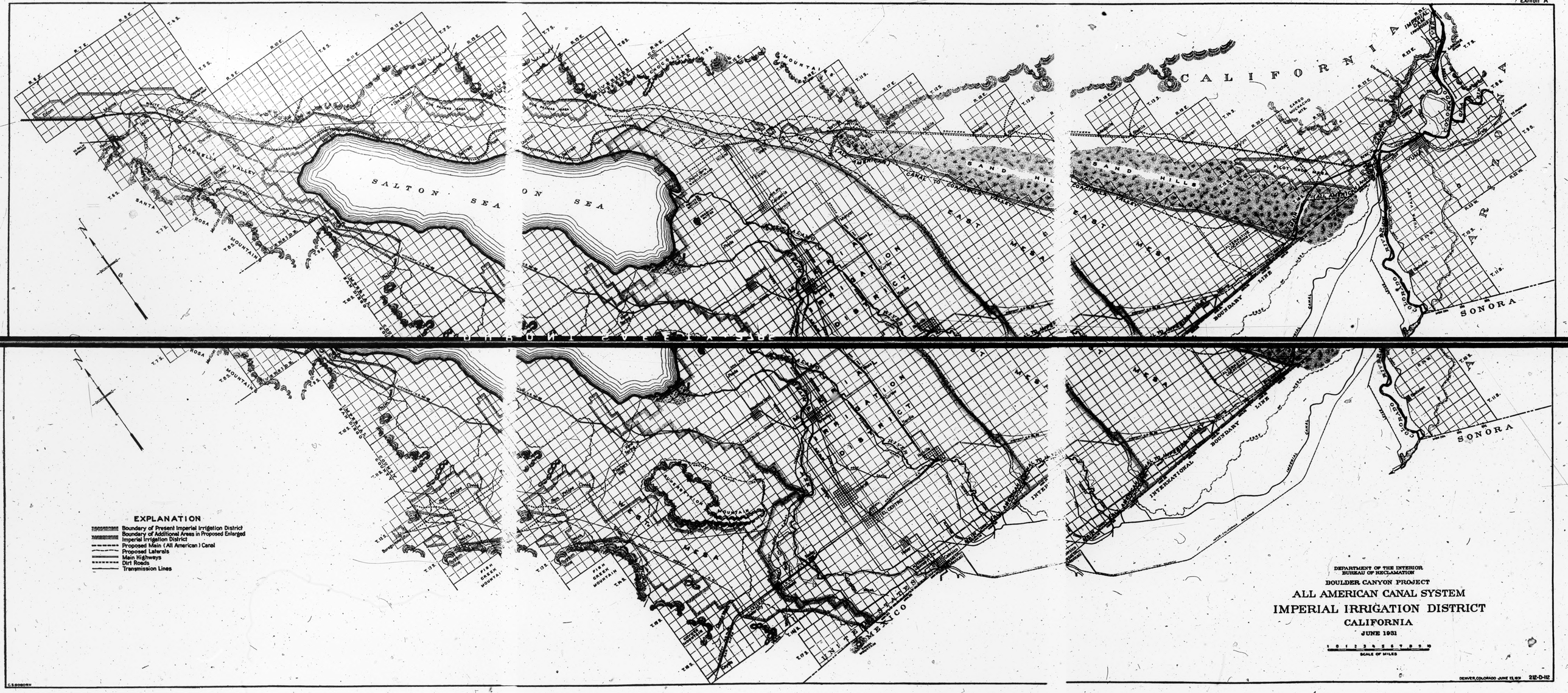
THE UNITED STATES OF AMERICA
By ROY LYMAN WILBUR
Secretary of the Interior.

IMPERIAL IRRIGATION DISTRICT
By JOHN L. DUBOIS
President.

[Seal]

NOTE

Attached to original as Exhibit "B" is a 15 page detailed description by reference to U. S. Government surveys of unentered public lands and entered public lands for which no final certificate had been issue, all referred to as lands to be included, as set forth in Article 34 and elsewhere of the foregoing contract. (Omitted due to lack of space.)


CALIFORNIA
ARIZONA
SONORA
MEXICO
UNITED STATES
SALTON SEA
CHOCOLATE MOUNTAINS
CHUCKAWALLA VALLEY
SANTA ROSA MOUNTAINS
SAND HILLS
EAST MESA
WEST MESA
IMPERIAL IRRIGATION DISTRICT
COACHELLA VALLEY
COLORADO RIVER
YUMA
CALEXICO
IMPERIAL
INTERNATIONAL BOUNDARY
EXPLANATION
Boundary of Present Imperial Irrigation District
Boundary of Additional Areas in Proposed Enlarged Imperial Irrigation District
Proposed Main (All American) Canal
Proposed Laterals
Main Highways
Dirt Roads
Transmission Lines
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
BOULDER CANYON PROJECT
ALL AMERICAN CANAL SYSTEM
IMPERIAL IRRIGATION DISTRICT
CALIFORNIA
JUNE 1931
SCALE OF MILES
DENVER, COLORADO, JUNE 15, 1931
212-D-112
C.S. OSBORN

APPENDIX NO. 14

AGREEMENT OF COMPROMISE: IMPERIAL IRRIGATION DISTRICT AND COACHELLA VALLEY WATER DISTRICT

February 14, 1934

Sec. 1. This Agreement, Made the 14th day of February, 1934, by and between Imperial Irrigation District, an irrigation district organized and existing under and by virtue of the California Irrigation District Act of the State of California and acts amendatory thereof or supplementary thereto, with its principal office at El Centro, Imperial County, California, said District being hereinafter sometimes styled "Imperial District," and Coachella Valley County Water District, a County Water District organized and existing under and by virtue of the County Water District Act of the State of California and acts amendatory thereof or supplementary thereto, and having its office at Coachella, Riverside County, California, said District being hereinafter sometimes styled "Coachella District,"

Witnesseth:

RECITALS.

Sec. 2. That, Whereas, Pursuant to the terms of the Boulder Canyon Project Act, approved December 21, 1928 (45 Stat. 1057), the Secretary of the Interior is authorized to construct a main canal and appurtenant structures located entirely within the United States, connecting Laguna Dam or other suitable diversion dam, which said Secretary is authorized to contruct, with Imperial and Coachella Valleys in California; and

Sec. 3. Whereas, The Secretary of the Interior has determined upon engineering and economic considerations

to construct a new diversion dam on the Colorado River approximately four and one-half miles above Laguna Dam, which new diversion dam has heretofore been and is designated Imperial Dam; and

Sec. 4. Whereas, Pursuant to the Boulder Canyon Project Act, a contract, dated December 1, 1932, hereinafter styled "Imperial Contract," has heretofore been executed between the United States and Imperial District for the construction of said Imperial Dam, main canal and appurtenant structures, which said main canal and appurtenant structures are hereinafter styled "All-American Canal," and for the re-payment of the cost thereof as provided by law; and

Sec. 5. Whereas, By said Imperial Contract, certain lands in Coachella Valley, and within Coachella District and lands adjacent to said District may, by petition, be included within the boundaries of Imperial District, and if said lands are not so included, then the works and capacity to serve said lands shall not be constructed under said contract; and

Sec. 6. Whereas, Said Coachella District through its Board of Directors has determined that said lands will not become a part of Imperial District pursuant to said contract, and that Coachella District desires to obtain a contract, hereinafter styled "Coachella Contract," with the United States, separately from Imperial District, for capacity in said Imperial Dam and All-American Canal to be provided for the benefit of said Coachella District, in addition to the capacity therein provided for Imperial District, and to pay the proper cost of such capacity; and

Sec. 7. Whereas, Under date of August 18, 1931, an agreement was made between certain interested agencies

in California, including the parties to this agreement, for the apportionment of the Colorado River water available for use within the State of California under the Colorado River Compact and the Boulder Canyon Project Act, a portion of which agreement is set out in Article 17 of said Imperial Contract as being a recommendation of the Chief of the Division of Water Resources of the State of California; and

Sec. 8. Whereas, Water for irrigation and domestic uses in the areas to be served under or from the All-American Canal in Imperial and Coachella Valleys will be supplied pursuant to the third and sixth priorities of said recommendation of the Chief of the Division of Water Resources of the State of California; and

Sec. 9. Whereas, Imperial District has certain prior rights to the use of the waters of the Colorado River, and the extent of said rights is in dispute as between the parties hereto, and each of said parties makes certain claims as to the use of said waters; and

Sec. 10. Whereas, The parties hereto, upon their respective contracts with the United States becoming effective and said All-American Canal being constructed, will respectively have certain power possibilities on the All-American Canal, which it is desired to have developed, operated and controlled as a unified project; and

Sec. 11. Whereas, Controversy has arisen and now exists between the parties hereto as to the extent and relation of their respective present and future rights to water and power on and from said All-American Canal, which controversy it is desired to have compromised and settled by this agreement;

Now, Therefore, In consideration of the premises and the mutual obligations and covenants of the parties hereto and as a compromise and settlement of their said respective rights, privileges and claims respecting the matters herein contained, it is agreed:

COACHELLA CONTRACT.

Sec. 12. Coachella District will forthwith apply to the proper governmental authorities for a contract between itself and the United States for the construction by the United States of the portion of the Imperial Dam and All-American Canal which will serve said District, and for the payment of its proper proportion of construction and other costs and for delivery of water; said contract to be in harmony with the provisions of the Imperial Contract and this agreement. The draft of said proposed Coachella Contract attached hereto and marked "Annex A" has been examined by Imperial District and the substance of said draft is approved by the parties hereto. Imperial District agrees that said draft, or such other draft as may be acceptable to the United States and in harmony with the provisions of the Imperial Contract and of this agreement, may be executed between the Coachella District and the United States. Imperial District will actively assist Coachella District in obtaining execution of such contract by the United States.

VALIDATION ACTION.

Sec. 13. That forthwith upon the execution of this agreement Coachella District will cause to be dismissed on behalf of itself and A. B. Cliff, John H. Colbert, R. C. Egnew, J. C. Jones and Washington McIntyre, with the stipulation that remittitur issue forthwith and that each

party pay his or its own costs, their appeal now pending in the Supreme Court of California, in that certain action entitled: "In the Matter of the Validation of a Contract Dated Dec. 1, 1932, Entitled 'Contract for Construction of Diversion Dam, Main Canal and Appurtenant Structures, and for Delivery of Water,' between the United States of America and Imperial Irrigation District. John L. Dubois, et al., Plaintiffs and Respondents, vs. All Persons, Defendants; Coachella Valley County Water District et al., Defendants and Appellants," being L. A. No. 14487, and this agreement shall not become effective for any purpose unless and until said appeal is so dismissed on behalf of all of said parties within ten (10) days from the execution hereof. Coachella District will actively assist in bringing said action to an early and final conclusion to the end that the present judgment be sustained.

GENERAL PROVISIONS.

Sec. 14. The provisions of this agreement hereinafter set forth shall be effective and binding upon the parties hereto only in the event that the Coachella Contract above mentioned is executed by and between the United States and said Coachella District prior to the transfer of constructed works to Imperial District for operation and maintenance, as provided by said Imperial Contract, and such Coachella Contract prior to such transfer or thereafter become binding upon the parties thereto, pursuant to law. After this agreement becomes effective, it together with the lease herein provided for, shall terminate in the event Coachella District shall be relieved of all obligations under the Coachella Contract, by reason of failure of the United States to complete the works to be constructed thereunder.

WATER.

SEC. 15. As a full and complete compromise and settlement of the controversy existing between the parties hereto as to the extent and priority of their respective rights and claims to the use of the waters of the Colorado River, it is agreed, as between said parties, that:

Imperial Irrigation District shall have the prior right for irrigation and potable purposes only, and exclusively for use in the Imperial Service Area, as hereinafter defined, or hereunder modified, to all waters apportioned to said Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys as provided in the third and sixth priorities set out in the recommendation of the Chief of the Division of Water Resources of the State of California, as contained in Article 17 of the Imperial Contract. Subject to said prior right of Imperial Irrigation District, Coachella Valley County Water District shall have the next right, for irrigation and potable purposes only and exclusively for use in the Coachella Service Area, as hereinafter defined, or hereunder modified, to all waters so apportioned to said Imperial Irrigation District and other lands under or that will be served from the All-American Canal in the Imperial and Coachella Valleys, as provided in said third and sixth priorities. The use of water for generation of electric energy shall be, in all respects, secondary and subservient to all requirements of said two districts for irrigation and potable purposes as above limited.

As hereinabove used, the term "Imperial Service Area" shall comprise all lands within the boundaries of Imperial

Irrigation District as said District was constituted on June 23, 1931 and all lands in Imperial and San Diego Counties, California, shown on map marked Exhibit "A", attached to said Imperial contract, and included within hatched border lines indicated on said map by legend as "Boundary of Additional Areas in Proposed Enlarged Imperial Irrigation District," other than (a) such of said lands as are labeled "Dos Palmas Area" and (b) such of said lands as lie West of Salton Sea and North of the Northerly boundary line of Township 11, South of the San Bernardino Base Line. The term "Coachella Service Area" shall comprise all lands described on statements hereto attached and marked "Exhibits" "B," "C," "D" and "E," respectively, being approximately, but not exactly, the lands within said hatched border lines shown on said Exhibit "A," other than those included in said Imperial Service Area. Upon application of either district and with the written consent of the Secretary of the Interior, the boundaries of the service area which such district is entitled hereunder to serve may at any time or from time to time be changed, but may not be so changed as, in the aggregate, to add more than 5000 acres to, nor to subtract more than 5000 acres from such service area, as herein defined, without the written consent of the district entitled hereunder to serve the other service area. Coachella District shall not participate in any revenues received by Imperial District for diverting, carrying and delivering at or near Pilot Knob, water for irrigation or domestic use for any person or agency other than the parties hereto, and Coachella District shall perform no such service at or near Pilot Knob.

APPLICATIONS TO APPROPRIATE WATER.

Sec. 16. The parties hereto agree that their respective applications to appropriate water from the Colorado River for irrigation and domestic purposes heretofore filed with the Division of Water Resources of the State of California be deemed amended to conform with the foregoing provisions of this agreement and stipulate that permits be issued to them, respectively, in accordance herewith and agree to file with said Division all necessary papers and stipulations to that end. Except as between the parties hereto the provisions of this agreement shall not affect nor impair any rights of either party to the waters of the Colorado River.

LEASE OF POWER RIGHTS.

Sec. 17. As a compromise and settlement of the controversy existing between the parties hereto as to all power possibilities, power rights, power resources and power privileges upon the whole of said All-American Canal in both Imperial and Riverside Counties, now or hereafter held, owned, or possessed by said parties, or either of them, including all those at or near Pilot Knob, which said power possibilities, power rights, power resources and power privileges are hereinafter styled "power rights," and to combine and co-ordinate all of said power rights as a unified project so as to produce the maximum benefits to the parties hereto and to the United States, it is agreed that the parties hereto will, within a reasonable time after the execution of said Coachella Contract, execute a good and sufficient lease agreement, wherein Coachella District shall demise to Imperial District all of said power rights which the Coachella District may now

have or hereafter obtain. Said lease, among other reasonable provisions, shall provide:

(a) That the term of said lease shall commence with the date thereof and terminate on January 1, 2033; provided, that should the term herein or in said lease fixed exceed that permitted by law at the date of said lease, then said term shall be deemed reduced to the longest period permitted by law;

(b) That said lease shall vest in Imperial District the entire and exclusive operation, management, development and control of all said power rights and the use, sale and control of power produced therefrom;

(c) That subject to the conditions hereinafter contained, Imperial District shall pay, on March first of each year, as rental for said demised power rights, eight per cent of the net proceeds, as defined in sub-section (f) hereof, received by Imperial District during the preceding calendar year from all said power rights held, owned or possessed by both parties hereto and from all power works and power facilities by or in connection with which Imperial District utilizes said power rights;

(d) That said rentals shall be paid by Imperial District to the United States and credited on the Coachella Contract until Coachella District's obligations to the United States under said contract are fully paid, and thereafter Imperial District shall pay said rentals to Coachella District;

(e) That no rentals shall be due or payable unless and until capacity in the All-American Canal shall have been provided for Coachella District down to Pilot Knob;

(f) That in determining said net proceeds, as between the parties hereto, there shall be taken into consideration

all items of cost of production and disposal of power, including, but not necessarily limited to amortization of and interest on capital investment for power purposes, improvements, operation and maintenance, and depreciation, and any other proper factor of cost not herein expressly enumerated;

(g) That the determination of said net proceeds for the purpose of ascertaining rentals payable under said lease shall be made without reference to the fact that as to Imperial District said rentals will constitute a part of the cost of doing business;

(h) That on March first of each year Imperial District shall furnish to Coachella District a statement of account showing the computation of said rental;

(i) That Coachella District shall not be required to contribute in any manner to the cost of construction, operation or maintenance of any power works or facilities on or in connection with the All-American Canal, except indirectly, as said items may be taken into consideration in determining rentals to be paid under said lease;

(j) That said lease shall terminate upon Coachella District being relieved of obligations as provided in Section 14 hereof and/or at the option of Coachella District, in the event of default in any payment of rentals by Imperial District for a period of two years;

(k) That any overdue rental shall bear interest at the rate of one-half of one per cent per month until paid;

(l) That when Imperial District is ready to undertake construction of facilities to serve electrical energy (herein designated "power") in Coachella Valley, Coa-

chella District shall obtain for Imperial District signed contracts or applications for power as provided in Section 18 hereof, and be otherwise subject to the provisions of said Section 18;

(m) That when Imperial District is ready to serve power from the All-American Canal in Coachella Valley, then, if and while said lease is in effect, Imperial District will furnish such power in Coachella District at the rates and upon the conditions provided in Section 19 hereof;

(n) That Coachella District shall, by its officials or designated representatives, have the right of ingress to and egress from all power works and facilities of Imperial District for the purpose of inspection thereof, and full and free access to and the right during office hours to inspect and copy all books and records of Imperial District relating to its power operations;

(o) That the interest of Imperial District under said lease shall not, nor shall any part thereof nor interest therein, be assigned, nor shall Imperial District sublet any part of nor interest in said demised power rights without the written consent of Coachella District;

(p) That at the termination of said lease the rights and privileges of the parties thereto shall be segregated and/or adjusted as may be equitable and just, having in view the business, interests and investments of the parties and their respective legal and equitable rights in said power rights, works and facilities on or in connection with the All-American Canal;

(q) That in the event the parties cannot agree upon such segregation or adjustment, then the same shall be made by a board of arbitration, consisting of five persons, one to be selected by Imperial District, one by Coachella

District, and three by the Secretary of the Interior and the decision of said board of arbitration shall be final and binding upon the parties to said lease.

(r) That nothing contained in said lease shall be construed as in any manner abridging, limiting, or depriving either of the parties thereto of any means of enforcing any remedy, either at law or in equity, for the breach of any of the provisions of said lease which it would otherwise have;

(s) That the waiver of a breach of any of the provisions of said lease shall not be deemed to be a waiver of any other provision thereof or of a subsequent breach of such provision.

POWER CONTRACTS.

Sec. 18. When the lease provided for in Section 17 hereof has been executed and Imperial District is ready to undertake construction of facilities to serve electrical energy, (herein styled "power") in Coachella Valley it shall notify Coachella District of said fact in writing and it shall thereupon be the duty of Coachella District to obtain for Imperial District, within six months after service of such notice, contracts or applications for power signed by consumers using at the time of service of such notice not less than eighty per cent of the power load then being consumed in the Coachella Service Area. Such contracts or applications shall be in such form and substance as reasonably required by Imperial District and shall among other things bind the consumer to take from Imperial District all power that he may require in Coachella District for a period of three years. In the event of disagreement between the parties as to whether or not Coachella District has complied with the foregoing

provisions of this section on its part to be complied with, then the Secretary of the Interior may, at the written request of either party, determine said fact and notify the parties hereto of such determination in writing, and such determination shall be final and binding upon the parties hereto. Notwithstanding anything herein or in said lease contained, there shall be no obligation on the part of the Imperial District for rentals under said lease during the time, if any, after said six months period that said signed contracts or applications for said eighty per cent of power load have not been so delivered.

POWER RATES.

Sec. 19. When the lease provided for in Section 17 hereof has been executed and Imperial District is ready to serve power from the All-American Canal in Coachella Valley then, and while said lease remains in effect, Imperial District will furnish such power in Coachella District upon the following terms:

A. To Coachella District, for use by itself for project purposes within said Coachella Service Area as such project purposes are hereinafter defined, at rates in no case exceeding the cost of power delivered in Coachella Valley, plus fifteen per cent, and in no event at rates higher than are charged by Imperial District to itself for like uses with such additional charges as may be necessary to offset difference in costs of transmitting power as between Imperial and Coachella Valleys. Subject to the foregoing provisions, Coachella District agrees that, for a period of five years from and after the service of the notice provided for in Section 18 hereof said Coachella District will purchase from Imperial District and pay for all power Coachella District may require for project pur-

poses within the Coachella Service Area, and for which Imperial District has sufficient facilities and is prepared to serve. Imperial District shall not be required to furnish power to Coachella District for project purposes at points where Imperial District does not then have sufficient facilities for such power service.

"Project Purposes" as used in this section shall be understood to mean construction, operation and maintenance of Coachella District's irrigation and drainage system within the Coachella Service Area, where such construction, operation, or maintenance is of a general public nature and not individual or private in character.

B. To all consumers within Coachella District, other than to Coachella District for project purposes, at no higher rates than those charged, and under the same conditions and regulations as those prescribed, by Imperial District for like service to consumers within Imperial District with such additional charges as may be necessary to offset difference in costs of transmitting power as between Imperial and Coachella Valleys. In no event shall such rates to such consumers exceed seventy-five per cent of the rates paid for like service by individual consumers in Coachella District on January 1, 1934, based upon the purchasing power of the dollar on said date. Imperial District shall make such further reduction in rates to such consumers as may be necessary to meet competitive rates for like service of any public utility, at the time authorized by the Railroad Commission of the State of California, or other authority succeeding to its functions, and able to serve such consumers, but in no event shall Imperial District be required to charge rates that will return less than the cost of service.

POWER PERMITS.

Sec. 20. The parties hereto agree to cooperate to the end that all necessary and proper permits and licenses to appropriate water for power purposes and construct power facilities may be obtained from the Division of Water Resources of the State of California and/or Federal Power Commission as may be authorized by law and hereby stipulate that such permits and licenses issue to the parties hereto, as follows, to-wit:

1. To Imperial District, as to all such permits and licenses on the portion of the All-American Canal shown on said Exhibit "A" and marked "Main (All American) Canal to Imperial Valley" lying west of the southerly end of the "Main (All American) Canal to Coachella Valley" as same is shown on said Exhibit "A";

2. To Coachella District, as to all such permits and licenses on the portion of the All-American Canal shown on said Exhibit "A" and marked "Main (All American) Canal to Coachella Valley" lying North of the Northerly boundary line of Township 11, South of the San Bernardino Base Line;

3. To Imperial District and Coachella District, as their respective privileges to utilize power possibilities may appear from their said contracts with the United States, as to all such privileges on all portions of the Imperial Dam and All-American Canal, including Pilot Knob, not herein above specified.

AGREEMENT VOID IF CERTAIN LANDS INCLUDED IN IMPERIAL DISTRICT.

Sec. 21. In the event lawful petition or petitions sufficient in all respects for inclusion within Imperial District of ninety per cent (90%) of the lands shown on said Exhibit "A" lying north of the northerly boundary line of Township Eleven (11), South of the San Bernardino Base Line and bounded by the lines indicated on said Exhibit "A" as "Boundary of Additional Areas in Proposed Enlarged Imperial Irrigation District", exclusive of the Dos Palmas Area and exclusive of Indian lands and public lands of the United States, shall be filed pursuant to and within the time limited by said Imperial Contract, and said lands shall be thereafter included within said Imperial District pursuant to such petition or petitions, then, as of the date of such inclusion, this agreement shall terminate and be at an end.

REMEDIES UNDER AGREEMENT NOT EXCLUSIVE.

Sec. 22. Nothing contained in this agreement shall be construed as in any manner abridging, limiting, or depriving either of the parties hereto of any means of enforcing any remedy, either at law or in equity, for the breach of any of the provisions hereof which it would otherwise have. The waiver of a breach of any of the provisions of this agreement shall not be deemed to be a waiver of any other provision hereof or of a subsequent breach of such provision.

Sec. 23. This agreement shall not be interpreted nor construed so as to amend, modify or change said Imperial Contract in any particular, and no provision hereof in conflict with said Imperial Contract shall be of any force or effect. As to any provisions hereof in which the United

States is interested this Agreement shall be deemed to be made expressly for the benefit of the United States, as well as of the parties hereto.

Sec. 24. This agreement shall inure to and be binding upon the parties hereto, their and each of their respective successors and assigns.

In Witness Whereof, Said parties have executed this agreement in triplicate original by their respective officers, thereunto duly authorized by resolutions of their respective Boards of Directors, the day and year first above written.

IMPERIAL IRRIGATION DISTRICT
By EVAN T. HEWES
Its President

ATTEST:
W. W. GOODSON
Its Secretary
(Seal)

COACHELLA VALLEY COUNTY WATER DISTRICT
By HARRY W. FORBES
Its President

ATTEST:
HELEN F. RUNYEN
Its Secretary
(Seal)

Note:

Attached to the original of the foregoing Agreement of Compromise dated February 14, 1934, between Imperial Irrigation District and Coachella Valley County Water District are the following as exhibits.

EXHIBIT "A"

A map bearing symbol number 212-0-112 designated "Boulder Canyon Project All American Canal System."

CALIFORNIA 1931

This map is identical with the map attached to the Contract of December 1, 1932, between United States of America and Imperial Irrigation District found in Appendix 13 to the Answer except that in the place of the words "Imperial Irrigation District" in said Appendix 13 the words "Coachella Valley County Water District" are used in the description designation on said map Exhibit A.

EXHIBIT "B"

A description by reference to U. S. Government survey of the lands within Coachella Valley County Water District and its Improvement District No. 1 and within the Coachella Service Area as referred to in the aforesaid contract.

EXHIBIT "C"

A description by U. S. Government Survey of Lands outside Coachella Valley County Water District and within the Coachella Service Area designated the Salton Area as referred to in the aforesaid contract.

ANNEX "A"

The form and language of a proposed contract to be made between United States of America and Coachella Valley County Water District, with Exhibits "A", "B", and "C" above referred to, duplicated and attached thereto—all referred to in the aforesaid compromise agreement.

(The above items are omitted to save space.)

APPENDIX NO. 15

REPAYMENT CONTRACT: UNITED STATES AND CITY OF SAN DIEGO

October 2, 1934

[Symbol I1r-1151]

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
BOULDER CANYON PROJECT
ALL-AMERICAN CANAL
THE CITY OF SAN DIEGO, CALIFORNIA

Contract for Construction of Capacity in Diversion Dam, Main Canal and Appurtenant Structures.

Article 1. **This Contract,** made this 2d day of October, nineteen hundred thirty-four, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Reclamation Law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat., 1057), designated the Boulder Canyon Project Act, and the Act of Congress approved June 16, 1933 (48 Stat., 195), designated the National Industrial Recovery Act, between **The United States of America,** hereinafter referred to as the United States, acting for this purpose by Harold L. Ickes, ~~Federal Emergency Administrator of Public Works and~~ Secretary of the Interior, hereinafter styled the Secretary, and **The City of San Diego,** a municipal corporation of the State of California, organized under a freeholders' charter, hereinafter referred to as the City;

Witnesseth:

Explanatory Recitals

Article 2. **Whereas,** for the puspose of controlling the floods, improving navigation and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters for reclamation of public lands and other beneficial uses exclusively within the United States, the Secretary, subject to the terms of the Colorado River Compact, is authorized to construct, operate and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon, adequate to create a storage reservoir of a capacity of not less than twenty million acre-feet of water, and a main canal and appurtenant structures located entirely within the United States connecting the Laguna Dam, or other suitable diversion dam, which the Secretary is also authorized to construct if deemed necessary or advisable by him upon engineering or economic considerations, with the Imperial and Coachella Valleys in California, the expenditures for said main canal and appurtenant structures to be reimbursable as provided in the reclamation law; and

Article 3. **Whereas,** after full consideration of the advantages of both the Black Canyon and Boulder Canyon dam sites, the Secretary has determined upon Black Canyon as the site of the aforesaid dam, hereinafter styled the Boulder Dam, creating thereby a reservoir to be hereinafter styled the Boulder Canyon Reservoir; and

Article 4. **Whereas,** (a) there has been executed under date of December 1, 1932, a contract, herein styled Imperial Contract, between the United States and Imperial Irrigation District, an irrigation district created, or-

ganized and existing under and by virtue of the laws of the State of California, hereinafter referred to as the District, which contract provides for the construction of a suitable diversion dam and main canal and appurtenant structures, therein and hereinafter respectively styled "Imperial Dam" and "All-American Canal", located entirely within the United States, connecting with the Imperial and Coachella Valleys, and for the delivery to the District of stored water from Boulder Canyon Reservoir; and

(b) There has been executed under date of February 15, 1933, a contract between the United States and the City whereby the City was accorded certain storage rights under the conditions therein stated in said Boulder Canyon Reservoir, and the right under the conditions therein stated to have the United States deliver to the City at a point in the Colorado River immediately above Imperial Dam, the water to which the City may be entitled, (estimated in said contract to be 155 cubic feet per second), in accordance with the recommendation of the Chief of the Division of Water Resources of the State of California, set out in said contract; and

(c) The City is now desirous of entering into this contract for the construction of capacity for it in said Imperial Dam and All-American Canal for said 155 cubic feet of water per second, so that the City may transport through said canal for the benefit of the inhabitants of the City, and those of other cities and communities in San Diego County who may hereafter become entitled, with the consent of the Secretary, to use part of said stored water from Boulder Canyon Reservoir, under said contract of February 15, 1933, this contract to be in harmony with the provisions of said Imperial Contract; and

Article 5. **Whereas,** The Secretary has determined, upon engineering and economic considerations, that it is advisable to provide for the construction of said Imperial Dam and All-American Canal, and has determined that the revenues provided for by this contract are adequate in his judgment to insure payment of all expenses of construction, operation and maintenance of the capacity in said Imperial Dam and All-American Canal to be constructed hereunder, in the manner provided in the reclamation law;

Article 6. **Now, Therefore,** in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to wit:

Construction by United States

Article 7. The United States will construct the Imperial Dam in the main stream of the Colorado River at the approximate location indicated on the map marked Exhibit "A" attached hereto and by this reference made a part hereof, and will also construct the Main (All American) Canal and Main (All American) Canal to Imperial Valley, the approximate location of said Canal to be as shown on the aforesaid Exhibit "A". Said Canal shall be so constructed as to provide a designed capacity of one hundred fifty-five (155) cubic feet of water per second, to be used by the City for the benefit of the inhabitants of said city and those of other cities and communities in San Diego County who may hereafter become entitled to use the same with the consent of the City and the Secretary, from and includng the diversion and desilting works at said dam to the westerly end of that portion of the All-American Canal designated on said Exhibit "A" as "Main (All American) Canal" and "Main (All

American) Canal to Imperial Valley". The ultimate cost to the City and the District of the Imperial Dam and All-American Canal shall in no event exceed the aggregate sum of thirty-million dollars ($30,000,000.00). Such cost shall include all expenses of whatsoever kind heretofore or hereafter incurred by the United States from the Reclamation Fund or the Colorado River Dam fund in connection with, growing out of, or resulting from the construction of said Imperial Dam and All-American Canal, including but not limited to the cost of labor, materials, equipment, engineering, legal work, superintendence, administration, overhead, any and all costs arising from operation and maintenance of said Imperial Dam and All-American Canal prior to the time that said costs are assumed respectively by the City and the District, damage of all kinds and character and rights of way as hereinafter provided. The City hereby agrees to repay to the United States its share of all expenditures incurred on account of any and all damages due to the existence, operation or maintenance of the Imperial Dam and All-American Canal, the incurrence of which increases expenditures by the United States beyond the said sum of thirty million dollars ($30,000,000.00). The City shall repay the same share of said expenditures as the share to be paid by the City under Article 10 (b) hereof of the capital cost of the particular part of said works causing such damage. The United States will invoke all legal and valid reservations of rights-of-way under acts of Congress, or otherwise reserved or held by it, without cost to the City, except that the United States reserves the right where rights-of-way are thus acquired to reimburse the owners of such lands for the value of improvements which may be destroyed, and the City agrees

that the United States may include such disbursements in the cost of the Imperial Dam and All-American Canal. If rights-of-way are required over an existing project of the Bureau of Reclamation, such sum or sums as may be necessary to reimburse the United States on account of the construction charges allocated to irrigable areas absorbed in such rights-of-way shall also be considered as a part of and be included with other costs of the Imperial Dam and All-American Canal. The City agrees that the District may convey to the United States, unencumbered fee simple title to any and all lands now owned by it which, in the opinion of the Secretary, may be required for right-of-way purposes for those portions of the Imperial Dam and All-American Canal to be used in common by the City and the District, at the fair market value thereof, to be determined by the Secretary, such value to be considered (as to the City) as a part of and included with other costs of the Imperial Dam and All-American Canal. Where rights-of-way within the State of California are required for the construction of Imperial Dam and All-American Canal, and such rights-of-way are not reserved to the United States under acts of Congress, or otherwise, or the lands over which such rights-of-way are required are not then owned by the District, the City agrees that the District, upon request of the Secretary, may acquire title to any such lands required for such purposes, and convey unencumbered fee simple title thereto to the United States at the actual cost thereof to the District, subject to the approval of such cost by the Secretary.

Operation and Maintenance of Common Works

Article 8. (a) Imperial Dam and All-American Canal designated on said Exhibit "A" as "Imperial Dam", "Main

(All American) Canal" and "Main (All American) Canal to Imperial" and Laguna Dam are herein styled "common works". Upon sixty (60) days' written notice from the Secretary of the completion of construction of the Imperial Dam and All-American Canal, or of any major unit thereof useful to the District and the City or either of them, as determined by the Secretary, whose determination thereof shall be final and binding upon the parties hereto, the District may assume the care, operation and maintenance of said common works, or major units thereof, and thereafter the District may care for, operate and maintain the same in such manner that such works shall remain in as good and efficient condition and of equal capacity for the diversion, transportation and distribution of water as when received from the United States, reasonable wear and damage by the elements excepted. The United States may, from time to time, in the discretion of the Secretary, resume operation and maintenance of said Imperial Dam upon not less than sixty (60) days' written notice and require reassumption thereof by the District on like notice. During such times, after completion, as Imperial Dam is operated and maintained by the United States, the City shall on March first of each year advance to the United States its share of the estimated cost of operation and maintenance for the following twelve months, upon estimates furnished therefor on or before September first next preceding. Such share to be advanced by the City shall be in the proportion that the capacity provided for the City in common works above Syphon Drop bears to the total capacity thereof.

(b) From and after the assumption by the District of operation and maintenance of said common works, or any major unit thereof of benefits to the City, the City

shall bear such proportion of the cost of operation and maintenance (including repairs and replacements and any charges made by the United States under Article Nine (9) hereof) of each component part of said common works, as the capacity provided for the City in such component part bears to the total capacity thereof. The City agrees, expressly for the benefit of the District, to advance to the District on or before January first of each year its said proportionate share of the estimated cost for that year of such operation and maintenance in accordance with a written notice to be issued to it by the District, provided that payment shall in no event be due until thirty (30) days after receipt of such notice. Prior to March first of each year the District shall provide the City with a written statement showing in detail the cost for the previous year for operation and maintenance of the works on account of which the City has made advances. Differences between actual costs and estimated costs shall be adjusted in the next succeeding notices. Upon request of the City, both the advance notice of estimated costs and the subsequent statement of actual costs for each year shall be reviewed by the Secretary and his determination of proper charges shall be final. Such review shall not change the due date for advance payments as herein provided and the cost of such review shall be borne equally by the District and the City. The District may at its option withhold delivery of water from the City until its proportionate share of the cost of operation and maintenance has been advanced or paid as in this article provided and until all sums due the District under Article 10 (c) hereof have been paid.

In the event the United States fails to complete the works herein contemplated and the City fails to elect to

make use of works theretofore partially or wholly constructed, the City shall be fully relieved of any and all responsibility for maintenance or operation or damage to person or property which may arise therefrom.

Keeping Diversion Dam, Main Canal and Appurtenant Structures in Repair

Article 9. Except in case of emergency, no substantial change in any of the works to be constructed by the United States and transferred to the District under the provisions hereof or under said Imperial Contract shall be made by the District, without first having had and obtained the written consent of the Secretary and the Secretary's opinion as to whether any change in any such works is or is not substantial shall be conclusive and binding upon the parties hereto. The District shall promptly make any and all repairs to and replacements of all said works transferred to it under the terms and conditions hereof or under said Imperial Contract which, in the opinion of the Secretary, are deemed necessary for the proper operation and maintenance of such works. In case of neglect or failure of the District to make such repairs, the United States may, at its option, after reasonable notice to the District, cause such repairs to be made and charge the actual cost thereof, plus fifteen per centum (15%) to cover overhead and general expense, to the District. On or before September first of each calendar year the United States shall give written notice to the District of the amount expended by the United States for repairs under this article during the twelve-month period immediately preceding. Such cost, plus overhead and general expense as stated above, shall be repaid by the District on March first immediately succeeding.

Agreement by City to Pay for Capacity Constructed for It by the United States

Article 10. (a) The total estimated cost of the Imperial Dam and All-American Canal as stated in Article 10 of the said Imperial Contract, is thirty-eight million, five hundred thousand dollars ($38,500,000.00), of which not to exceed thirty million dollars ($30,000,000.00) represents the total estimated cost of Imperial Dam, the Main (All American) Canal, and the Main (All American) Canal to Imperial Valley. The City agrees to pay the United States its share, as defined in sub-article (b) of this Article, of the actual total cost not exceeding thirty million dollars ($30,000,000.00), incurred by the United States on account of such works, subject, however, to the provisions of Article seven (7) hereof; provided, that should Congress and other Governmental financing authorities fail to make necessary appropriations or allocations of money to complete the work herein provided for, then the Secretary may, at such reasonable time as he may consider advisable, after Congress and such other Governmental authorities shall have failed for five (5) consecutive years to make the necessary appropriations or allocations which shall have been annually requested by the Secretary, give the City notice of the termination of work by the United States and furnish a statement of the amount actually expended by the United States thereon. Upon the receipt of such notice by the City, the City shall be given two (2) years from and after such receipt of notice to elect whether it will utilize said works theretofore constructed hereunder, or some particular part thereof. Such election on the part of the City shall be expressed by resolution of the City Council submitted to

the electorate of the City for approval or rejection in the manner provided by law. If the City elects not to utilize, or fails within said two-year period to elect to utilize said works constructed hereunder, or some portion thereof, then the City shall have no further rights therein and no obligations therefor. If the City elects to utilize said works or a portion thereof, then the reasonable value to the City of the works so utilized, not exceeding the actual cost thereof to the United States, shall be paid by the City under the terms of this contract; the first payment to be due and payable on the first day of March following the first day of August next succeeding the final determination of the reasonable value to the City of such works, in case no further work is done by the City. Should the City elect to complete the work contemplated by this contract, or some portion thereof, the first payment shall be due and payable on the first day of March following the first day of August next succeeding the date of final completion of the work by the City as determined by the Secretary. In determining the value of such works to the City there shall be taken into account, among other things, the method of financing required and cost of money, so that in no event shall all of the works contemplated by this contract cost the City more than they would have cost the City had they all been constructed by the United States under the terms of this contract. In the event of failure of the parties to agree as to the reasonable value to the City of the works which the City elects to use, the same shall be determined as provided in Article twenty-two (22) hereof.

(b) The amounts herein agreed to be paid by the City to the United States shall be in accordance with the fol-

lowing proportions, which proportions the Secretary hereby determines to be equitable and just, to wit:

(i) That proportion of the total cost of that part of said common works above Syphon Drop, excepting Laguna Dam, that the capacity provided for the City therein bears to the total capacity thereof less the capacity to be provided without cost to and for the Yuma Project.

(ii) That proportion of the total cost of each component part of all said common works, other than the part above Syphon Drop, that the capacity provided for the City in such part of said works bears to the total capacity thereof.

(c) The City agrees to pay to the United States on the 31st day of December of each year commencing December 31, 1935, a portion (computed in the same manner as its share of costs of common works above Syphon Drop as agreed in Article 10 (b) (i) hereof) of each of the annual payments (together with interest required thereon), then or thereafter required to be made to the United States for a connection with Laguna Dam, under said contract dated October 23, 1918, and under Article sixteen (16) of said Imperial Contract.

The Secretary hereby determines that it is equitable and just that the City pay, and the City agrees, expressly for the benefit of the District, to pay the District the same proportion of the aggregate sum which shall have been paid by the District to the United States prior to December 31, 1935, for a connection with Laguna Dam, as aforesaid, as the proportion herein agreed to be paid by the City to the United States of payments hereafter to be

made for said connection with Laguna Dam. The aggregate sum to be paid by the City to the District shall be divided into ten (10) equal instalments, payable annually on March first of each year, commencing on or before the year 1939, with interest from date hereof on unpaid balance at the rate of six per centum (6%) per annum, payable March 1st, 1936, and annually thereafter. At its option, the City may at any time pay any amount on principal of said aggregate sum in advance of the due date and interest on the amount so paid shall thereupon cease.

Terms of Payment

Article 11. The amount herein agreed to be paid to the United States shall be due and payable in not more than thirty-eight (38) annual instalments commencing with the calendar year next succeeding the year when notice of completion of all work provided for herein is given to the City or under the provisions of Article 10 (a) hereof upon termination of work through failure of Congress or other Governmental authorities to make necessary appropriations or allocations therefor. The first five (5) of such annual instalments shall each be one percentum (1%) of the amount herein agreed to be paid to the United States; the next ten (10) of such instalments shall each be two percentum (2%) of the amount herein agreed to be paid to the United States, the next twenty-one (21) of such instalments shall each be three percentum (3%) of the amount herein agreed to be paid to the United States, and the remainder of such annual instalments shall each be six percentum (6%) of the amount herein agreed to be paid to the United States. The sums payable annually as set forth above shall be divided into two (2) equal semi-annual payments, payable on March first and September first of

each year; provided, however, that if notice of the completion of work is given to the City subsequent to August first of any year the first semi-annual instalment of charges hereunder shall be due and payable on March first of the second succeeding year.

Operation and Maintenance Costs

Article 12. Each agency which hereafter contracts for capacity to be provided for it in Imperial Dam and All-American Canal and for which agency capacity is so provided shall bear such proportionate part of the cost of operation and maintenance (including repairs and replacements) of the component parts of Imperial Dam and All-American Canal and of the Laguna Dam as may be determined by the Secretary to be equitable and just, but not less than an amount in proportion to the total amount as are the relative capacities provided in each component part for such agency and for all other agencies, including the City. Each such agency shall advance to the District operating the works provided to be used in common by the District and the City and such agency on or before January first of each year, its proportionate share of the estimated cost for that year of operation and maintenance in accordance with a notice to be issued by the District, provided that payment shall in no event be due until thirty (30) days after receipt of notice. Prior to March 1st of each year the District shall provide each agency with a statement showing in detail the costs for the previous year for operation and maintenance of the works on account of which such agency has made advances. Differences between actual costs and estimated costs shall be adjusted in next succeeding notices. Upon request of any agency, both the advance notice of estimated costs and

the subsequent statement of actual costs for each year shall be reviewed by the Secretary and his determination of proper charges shall be final. Such review shall not change the due date for advance payments as herein provided, and the cost of such review shall be borne equally by the requesting agency and the District. The District may, at its option, withhold the delivery of water from any agency until its proportionate share of the costs of operation and maintenance has been advanced or paid, as in this Article provided.

Power Possibilities

Article 13. The power possibilities on the All-American Canal down to and including Syphon Drop with water carried for the benefit of the Yuma Project as provided for in Article fourteen (14) hereof, are hereby reserved to the United States. Subject to this reservation and the participation by other agencies as provided for in Article seventeen (17) hereof, the City shall have the privilege of utilizing by contract or otherwise, by means of the capacity to be provided for the City hereunder, such power possibilities, including those at or near Pilot Knob, as may exist upon said canal in proportion to its relative contribution or obligation toward the capital cost of said canal and appurtenant structures from and including the diversion works to the point where each respective power plant may be located; provided, that such privilege shall not interfere with the utilizing by the District of such power possibilities at or near Pilot Knob, by means of the capacity to be provided for the District in the All-American Canal from Syphon Drop to Pilot Knob, in excess of eight thousand five hundred (8,500) cubic feet of water per second. The net proceeds as hereinafter defined in Article twenty-seven

(27) hereof, and as determined by the Secretary for each calendar year, from any power development which the City is hereunder authorized to make, shall be paid into the Colorado River Dam fund on March first of the next succeeding calendar year and be credited to the City on this contract until the City shall have paid thereby and/or otherwise an amount of money equivalent to that herein agreed to be paid to the United States. Thereafter such net power proceeds shall belong to the City. It is agreed that in the event the net power proceeds in any calendar year, creditable to the City, shall exceed the annual instalment of charges payable under this contract during the then current calendar year, the excess of such net power proceeds shall be credited on the next succeeding unpaid instalment to become due from the City under this contract.

Diversion and Delivery of Water for Yuma Project

Article 14. The City hereby consents that there be diverted at the Imperial Dam, and transported and delivered at Syphon Drop and/or such intermediate points as may be designated by the Secretary, the available water to which the Yuma Project (situated entirely within the United States and not exceeding in area 120,000 acres plus lands lying between the project levees and the Colorado River as such levees were located in 1931) is entitled, not exceeding two thousand (2,000) second-feet of water in the aggregate, or such part thereof as the Secretary may direct, for the use and benefit of said project, including the development of power at Syphon Drop, such water to be diverted, transported and delivered continuously in so far as reasonable diligence will permit; provided, however, that water shall not be diverted, transported, or delivered

for the Yuma Project when the Secretary notifies the District that said project for any reason may not be entitled thereto; provided, further that there may be diverted, transported and delivered such water in excess of requirements for irrigation or potable purposes, as determined by the Secretary, on the Yuma Project as so limited, only when such water is not required by the City under the provisions of its said contract of February 15, 1933. The diversion, transportation and delivery of water for the Yuma Project as aforesaid shall be without expense to the United States or its successors in control of said project, as to capital investment required to provide facilities for such diversion and transportation of water except such checks, turnouts and other structures required for delivery from said canal.

Contract of October 23, 1918

Article 15. That certain contract between The United States of America and the District, bearing date of October 23, 1918, providing for a connection with Laguna Dam, having been terminated, except as to the provisions of Article nine (9) thereof, by said Imperial Contract, the City hereby consents to such partial termination of said first mentioned contract. The City hereby consents that there be furnished to the United States or its successors in interest in the control, operation and maintenance of the Yuma Project, from any power development on the All-American Canal at or near Pilot Knob, up to but not to exceed four thousand horsepower of electrical energy for use by the agency in charge of project operations for irrigation and drainage pumping purposes and necessary incidental use on said Yuma Project, such power to be fur-

nished at cost (including overhead and general expense) plus ten per cent; provided, however, that such power at or near Pilot Knob shall not be required to be furnished except at such times as all power feasible of development at Syphan Drop or developed elsewhere within a radius of forty (40) miles from the City of Yuma for the benefit of the Yuma Project is being used for project operations as in this article specified.

Refusal of Water in Case of Default

Article 16. The United States reserves the right to refuse to deliver water to the City in the event of default for a period of more than twelve (12) months in any payment due the United States under this contract, or in the discretion of the Secretary to reduce deliveries in such proportion as the amount in default by the City bears to the total amount due. The United States further reserves the right to forthwith assume control of all or any part of the works to be constructed hereunder and to care for, operate and maintain the same, so long as the Secretary deems necessary or advisable, if, in his opinion, which shall be final and binding upon the parties hereto, the City does not carry out the terms and conditions of this contract to their full extent and meaning. In such event, the City's pro rata share of the actual cost of such care, operation and maintenance by the United States shall be repaid to the United States, plus fifteen per centum (15%) to cover overhead and general expense, on March first of each year immediately succeeding the calendar year during which said works are operated and maintained by the United States. Nothing herein contained shall relieve the City of the obligation to pay in any event all instalments and penalties provided in this contract.

Use of Works by the United States and Others

Article 17. The United States also reserves the right to, and the City agrees that it may, at any time prior to the transfer of constructed works to the District for operation and maintenance, increase the capacity of such works and contract for such increased capacity with other agencies for the delivery of water for use in the United States. Such other agencies shall have the privilege at any time of utilizing by contract or otherwise such power possibilities as may exist upon said canal in proportion to their respective contributions or obligations toward the capital cost of said canal and appurtenant structures from and including the diversion works to the point where each respective power plant may be located. In the event other agencies thus contract with the United States, each of such agencies shall assume such proportion of the total cost of said works to be used jointly by such agency and the City, including Laguna Dam, as the Secretary may determine to be equitable and just, but not less than the proportion that the capacity provided for such agency in such works bears to the total capacity thereof (except in that part thereof above Syphon Drop including Laguna Dam, in which part the proportion which such other agency shall assume shall be not less than the proportion that the capacity provided for such agency therein bears to the total capacity thereof less the capacity to be provided without cost to and for the Yuma Project) and the City's financial obligations under this Contract shall be adjusted accordingly. In no event shall construction costs chargeable to the City be increased by reason of additional capacity being provided for any such agency or agencies or contract or contracts having been made with same. Any such agency thus contracting

shall also be required to reimburse the City in such amounts and at such times as the Secretary may determine to be equitable and just for payments theretofore made by the City for the right to use Laguna Dam.

Title to Remain in the United States

Article 18. Title to the aforesaid Imperial Dam and All-American Canal shall be and remain in the United States notwithstanding transfer of the care, operation and maintenance thereof to said District or other agency; provided, however, that the Secretary may, in his discretion, when repayment to the United States of all moneys advanced shall have been made, transfer the title to said main canal and appurtenant structures, except the diversion dam and the main canal and appurtenant structures down to and including Syphon Drop, to the District, the City or other agencies in the United States having a beneficial interest therein in proportion to their respective capital investments under such form of organization as may be acceptable to him.

Rules and Regulations

Article 19. There is reserved to the Secretary the right to prescribe and enforce rules and regulations not inconsistent with this contract governing the diversion and delivery of water hereunder to or for the City and to other contractors. Such rules and regulations may be modified, revised and/or extended from time to time after notice to the City and opportunity for it to be heard, as may be deemed proper, necessary or desirable by the Secretary to carry out the true intent and meaning of the law and of this contract, or amendments thereof, or to protect the interests of the United States. The City

hereby agrees that in the operation and maintenance of the Imperial Dam and All-American Canal, all such rules and regulations will be fully adhered to by it.

Inspection by the United States

Article 20. The Secretary may cause to be made from time to time a reasonable inspection of the works constructed by the United States to the end that he may ascertain whether the terms of this and other contracts are being satisfactorily executed by the City and/or other agencies. Such proportion of the actual expense of such inspection in any calendar year, as shall be found by the Secretary to be equitable and just, shall be paid by the City to the United States on March first of each year immediately following the year in which such inspection is made, and upon statement to be furnished by the Secretary. The Secretary or his representative shall at all times have the right of ingress to and egress from all works of the City for the purpose of inspection, repairs and maintenance of works of the United States, and for all other purposes.

Access to Books and Records

Article 21. The officials or designated representatives of the City shall have full and free access to the books and records of the United States, so far as they relate to the matters covered by this contract, with the right at any time during office hours to make copies of and from the same; and the Secretary shall have the same right in respect of the books and records of the City.

Disputes or Disagreements

Article 22. Disputes or disagreements as to the interpretation or performance of the provisions of this con-

tract, except as otherwise provided herein, shall be determined either by arbitration or court proceedings; the Secretary being authorized to act for the United States in such proceedings. Whenever a controversy arises out of this contract, and the parties hereto agree to submit the matter to arbitration, the City shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within thirty (30) days after their first meeting, such arbitrators not so elected, shall be named by the Senior Judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

Interest and Penalties

Article 23. No interest shall be charged on any instalments of charges due from the City hereunder except that on all such instalments or any part thereof, which may remain unpaid by the City to the United States after the same become due, there shall be added to the amount unpaid a penalty of one-half of one per centum (½%) and a like penalty of one-half of one per centum (½%) of the amount unpaid shall be added on the first day of each month thereafter so long as such default shall continue.

Agreement Subject to Colorado River Compact

Article 24. This contract is made upon the express condition and with the express understanding that all rights based upon this contract shall be subject to and controlled by the Colorado River Compact, being the compact or agreement signed at Santa Fe, New Mexico, No-

vember 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes", which compact was approved by the Boulder Canyon Project Act.

Application of Reclamation Law

Article 25. Except as provided by the Boulder Canyon Project Act, the reclamation law shall govern the construction, operation and maintenance of the works to be constructed hereunder.

Contracts to Be Authorized by Election of Electors of City

Article 26. The execution of this contract by the City shall be authorized by the vote of two-thirds of the qualified electors of the City voting at an election to be held for that purpose, assenting that the City incur the indebtedness and liability of this contract, and authorizing and directing the City Council to levy annually a tax sufficient to provide for the payment to the United States each year when due each and every of the annual obligations of the City under this contract, or any portion thereof not paid from revenues derived from other sources. The City shall without delay and at its own cost and expense furnish the United States for its files, copies of all proceedings relating to the election upon this contract, which said copies shall be properly certified by the City Clerk of The City of San Diego.

Method of Determining Net Power Proceeds

Article 27. In determining the net proceeds for each calendar year from any power development which the City is hereunder authorized to make, on the All-American Canal, to be paid into the Colorado River Dam fund as provided in Article thirteen (13) hereof, there shall be taken into consideration all items of cost of production of power, including but not necessarily limited to amortization of and interest on capital investment in power development, replacements, improvements, and operation and maintenance, if any. Any other proper factor of cost not here expressly enumerated may be taken into account in determining the net proceeds.

Contingent Upon Appropriations

Article 28. This contract is subject to appropriations or allocations being made by Congress or other Governmental financing authority from year to year of moneys sufficient to do the work provided for herein, and to there being sufficient moneys available in the Colorado River Dam fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents or employees, by reason of sufficient moneys not being so appropriated nor on account of there not being sufficient moneys in the Colorado River Dam fund to permit of said allotments. If more than three years elapse after this contract becomes effective and before appropriations or allocations are available to permit the United States to make expenditures hereunder, the City may, at its option, upon giving sixty (60) days' written notice to the Secretary, cancel this contract. Such option shall be expressed by vote of the electors of the City with the same formalities as required for the authorization of this contract.

Rights Reserved Under Section 3737 Revised Statutes

Article 29. All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Remedies Under Contract Not Exclusive

Article 30. Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States, the City, or the District of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have. The waiver of a breach of any of the provisions of this contract shall not be deemed to be a waiver of any other provision hereof or of a subsequent breach of such provision.

Interest in Contract Not Transferable.

Article 31. No interest in this contract is transferable by the City to any other party, without the consent of the United States, and any such attempted transfer shall cause this contract to become subject to annulment at the option of the United States.

Member of Congress Clause

Article 32. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA,
By HAROLD L. ICKES
~~Federal Emergency Administration of Public Works and~~
[COG JLK MW]
Secretary of the Interior.

[Seal]

THE CITY OF SAN DIEGO,
By RUTHERFORD B. IRONES
Mayor.

[Seal]

Approved as to form and legality:
D. L. AULT
City Attorney.

Attest:
ALLEN H. WRIGHT
City Clerk

(Seal)

State of California, County of San Diego—ss.

On this 30th day of October, 1939, before me, Fred W. Sick, a Notary Public in and for the said County of San Diego, State of California, residing therein. duly commissioned and sworn, personally appeared Rutherford B. Irones personally known to me to be the person whose name is subscribed to the within instrument, and he duly acknowledged to me that he executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal, at my office in the County of San Diego, the day and year in this certificate first above written.

FRED W. SICK
Notary Public in and for the County of San Diego,
State of California

[Seal]

My Commission expires May 22, 1943.

APPENDIX NO. 16

WATER DELIVERY AND REPAYMENT CONTRACT: UNITED STATES AND COACHELLA VALLEY COUNTY WATER DISTRICT

October 15, 1934

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Reclamation
BOULDER CANYON PROJECT
ALL-AMERICAN CANAL
COACHELLA VALLEY COUNTY WATER DISTRICT.

Contract for Construction of Capacity in Diversion Dam, Main Canal and Appurtenant Structures and for Delivery of Water.

Article 1. This Contract, made this 15 day of October, nineteen hundred thirty-four, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Reclamation Law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat., 1057), designated the Boulder Canyon Project Act, and the Act of Congress approved June 16, 1933 (48 Stat., 195), designated the National Industrial Recovery Act, between The United States of America, hereinafter referred to as the United States, acting for this purpose by Harold L. Ickes, Federal Emergency Administrator of Public Works and Secretary of the Interior, hereinafter styled the Secretary, and Coachella Valley County Water District, a County Water District created, organized and existing under and by virtue of the County Water District

Act of the State of California, and acts amendatory thereof or supplementary thereto, with its principal place of business at Coachella, Riverside County, California, hereinafter referred to as the District;

Witnesseth:

Explanatory Recitals

Article 2. Whereas, for the purpose of controlling the floods, improving navigation and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters for reclamation of public lands and other beneficial uses exclusively within the United States, the Secretary, subject to the terms of the Colorado River Compact, is authorized to construct, operate and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon, adequate to create a storage reservoir of a capacity of not less than twenty-million acre-feet of water, and a main canal and appurtenant structures located entirely within the United States connecting the Laguna Dam, or other suitable diversion dam, which the Secretary is also authorized to construct if deemed necessary or advisable by him upon engineering or economic considerations with the Imperial and Coachella Valleys in California, the expenditures for said main canal and appurtenant structures to be reimbursable as provided in the reclamation law; and

Article 3. Whereas, after full consideration of the advantages of both the Black Canyon and Boulder Canyon dam sites, the Secretary has determined upon Black Canyon as the site of the aforesaid dam, hereinafter styled the Boulder Dam, creating thereby a reservoir to be hereinafter styled the Boulder Canyon Reservoir; and

Article 4. Whereas, (a) there are included within the boundaries of the District areas of private and public lands and additional private and public lands will, by appropriate proceedings, be added to the District and to the Coachella Service Area, defined in Article 17 hereof; and

(b) There has been executed under date of December 1, 1932, a contract, herein styled Imperial Contract, between the United States and Imperial Irrigation District, an irrigation district created, organized and existing under and by virtue of the laws of the State of California, which contract provides for the construction of a suitable diversion dam and main canal and appurtenant structures, therein and hereinafter respectively styled "Imperial Dam" and "All-American Canal", located entirely within the United States, connecting with the Imperial and Coachella Valleys, and for the delivery to said Imperial Irrigation District of stored water from Boulder Canyon Reservoir; and

(c) Certain controversies between said two districts relating to their respective interests in water and power on said All-American Canal have been settled and compromised by an agreement executed between said two districts, dated February 14th, 1934, a triplicate original of which said agreement was on July 3, 1934, filed with the Secretary; and

(d) The District is desirous of entering into a contract for the construction of certain capacity for it in said Imperial Dam and All-American Canal and for the delivery to the District, for the benefit of the lands under or that will be served from the All-American Canal in Coachella Valley, now or hereafter within the District and lying within said Coachella Service Area, of stored water

from Boulder Canyon Reservoir, such contract to be in harmony with the provisions of said Imperial Contract and those of said agreement dated February 14th, 1934; and

Article 5. Whereas, The Secretary has determined, upon engineering and economic considerations, that it is advisable to provide for the construction of such Imperial Dam and All-American Canal, and has determined that the revenues provided for by this contract are adequate in his judgment to insure payment of all expenses of construction, operation and maintenance of the capacity in said Imperial Dam and All-American Canal to be constructed hereunder, in the manner provided in the reclamation law;

Article 6. Now, Therefore, in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to-wit:

Construction by United States

Article 7. The United States will construct the Imperial Dam in the main stream of the Colorado River at the approximate location indicated on the map marked Exhibit "A" attached hereto and by this reference made a part hereof, and will also construct the All-American Canal to the Imperial and Coachella Valleys, the approximate location of said canal to be as shown on the aforesaid Exhibit "A". Said canal shall be so constructed as to provide a designed capacity of one thousand five hundred (1500) cubic feet of water per second, to be used by the District for the benefit of the lands now or hereafter within the District and lying within said Coachella Service Area, from and including the diversion and desilting works at said dam to the southerly end of that portion

of the All-American Canal designated on said Exhibit "A" as "Main (All American) Canal to Coachella Valley" (hereinafter styled "Coachella Main Canal"). Said Coachella Main Canal shall be constructed with such capacities as the Secretary may conclusively determine to be necessary or advisable upon engineering or economic considerations to accomplish the ends contemplated by this contract; provided, however, that changes in capacities, locations, lengths and alignments, may be made during the progress of the work as may, in the opinion of the Secretary, whose opinion shall be final and binding upon the parties hereto, be expedient, economical, necessary or advisable, except the capacity above indicated from and including the diversion and desilting works at Imperial Dam to the Southerly end of said Coachella Main Canal, which capacity may be changed only by mutual agreement between the Secretary and the District. The ultimate cost to said two districts of the Imperial Dam and All-American Canal shall in no event exceed the aggregate sum of thirty-eight million, five hundred thousand dollars ($38,500,000.00). Such cost shall include all expenses of whatsoever kind heretofore or hereafter incurred by the United States from the Reclamation Fund or the Colorado River Dam fund in connection with, growing out of, or resulting from the construction of said Imperial Dam and All-American Canal, including but not limited to the cost of labor, materials, equipment, engineering, legal work, superintendence, administration, overhead, any and all costs arising from operation and maintenance of said Imperial Dam and All-American Canal prior to the time that said costs are assumed respectively by the said two districts, damage of all kinds and character and rights-of-way as hereinafter provided.

The District hereby agrees to re-pay to the United States its share of all expenditures incurred on account of any and all damages due to the existence, operation or maintenance of the diversion dam and main canal, the incurrence of which increases expenditures by the United States beyond said sum of $38,500,000.00. The District shall re-pay the same share of said expenditures as the share to be paid by the District under Article 10 (b) hereof of the capital cost of the particular part of said works causing such damage. The United States will invoke all legal and valid reservations of rights-of-way under acts of Congress, or otherwise reserved or held by it, without cost to the District, except that the United States reserves the right where rights-of-way are thus acquired to reimburse the owners of such lands for the value of improvements which may be destroyed, and the District agrees that the United States may include such disbursements in the cost of the Imperial Dam and All-American Canal. If rights-of-way are required over an existing project of the Bureau of Reclamation, such sum or sums as may be necessary to reimburse the United States on account of the construction charges allocated to irrigable areas absorbed in such rights-of-way shall also be considered as a part of and be included with other costs of the Imperial Dam and All-American Canal. The District agrees to convey to the United States without cost, unencumbered fee simple title to any and all lands now owned by it which, in the opinion of the Secretary, may be required for right-of-way purposes for the Imperial Dam and All-American Canal; and the District agrees that Imperial Irrigation District may convey to the United States, unencumbered fee simple title to any and all lands now owned by it which, in the opinion of

the Secretary, may be required for right-of-way purposes for those portions of the Imperial Dam and All-American Canal to be used in common by said two districts, at the fair market value thereof, to be determined by the Secretary, such value to be considered (as to the District) as a part of and included with other costs of the Imperial Dam and All-American Canal. Where rights-of-way within the State of California are required for the construction of Imperial Dam and All-American Canal, and such rights of way are not reserved to the United States under Acts of Congress, or otherwise, or the lands over which such rights of way are required are not then owned by either of said two districts, then the District agrees, (a) that it will, upon request of the Secretary, acquire title to such lands required for such purposes as lie north of the lowest turnout for East Mesa on said Coachella Main Canal, and in turn convey unencumbered fee simple title thereto to the United States at the actual cost thereof to the District, subject to the approval of such cost by the Secretary; and (b) agrees that Imperial Irrigation District, upon request of the Secretary, may acquire title to any such lands required for such purposes as lie south of the Northerly boundary line of Township Eleven (11), South of the San Bernardino Base Line, and likewise convey unencumbered fee simple title thereto to the United States at the actual cost thereof to the Imperial Irrigation District, subject to the approval of such cost by the Secretary.

Assumption of Operation and Maintenance of Common and Separate Works

Article 8(a). Imperial Dam and All-American Canal and Laguna Dam except (i) that portion of said Coachella Main Canal lying North of the lowest turnout for East

Mesa and (ii) that portion of the All-American Canal lying West of the Southerly end of said Coachella Main Canal and designated on said Exhibit "A" as "Main (All American) Canal to Imperial Valley" are herein styled "common works". Upon sixty (60) days written notice from the Secretary of the completion of construction of the Imperial Dam and All-American Canal, or of any major unit thereof useful to said two districts or either of them, as determined by the Secretary, whose determination thereof shall be final and binding upon the parties hereto, said Imperial Irrigation District may assume the care, operation and maintenance of said common works, or major units thereof, and thereafter said Imperial Irrigation District may care for, operate and maintain the same in such manner that such works shall remain in as good and efficient condition and of equal capacity for the diversion, transportation and distribution of water as when received from the United States, reasonable wear and damage by the elements excepted. The United States may, from time to time, in the discretion of the Secretary, resume operation and maintenance of said Imperial Dam upon not less than sixty (60) days written notice and require reassumption thereof by said Imperial Irrigation District on like notice. During such times, after completion, as the Imperial Dam is operated and maintained by the United States, the District shall on March first of each year advance to the United States its share of the estimated cost of operation and maintenance for the following twelve months, upon estimates furnished therefor on or before September first next preceding. Such share to be advanced by the District shall be in the proportion that the capacity provided for the District in common works above Syphon Drop bears to the total capacity thereof.

(b) From and after the assumption of operation and maintenance of said common works or any major unit thereof, by Imperial Irrigation District, the District shall bear such proportion of the cost of operation and maintenance (including repairs and replacements and any charges made by the United States under Article Nine (9) hereof) of each component part of said common works, as the capacity provided for the District in such component part bears to the total capacity thereof. The District agrees, expressly for the benefit of Imperial Irrigation District, to advance to Imperial Irrigation District on or before January first of each year its said proportionate share of the estimated cost for that year of such operation and maintenance in accordance with a written notice to be issued to it by Imperial Irrigation District, provided that payment shall in no event be due until thirty (30) days after receipt of such notice. Prior to March first of each year Imperial Irrigation District shall provide the District with a written statement showing in detail the cost for the previous year for operation and maintenance of the works on account of which the District has made advances. Differences between actual costs and estimated costs shall be adjusted in next succeeding notices. Upon request of the District, both the advance notice of estimated costs and the subsequent statement of actual costs for each year shall be reviewed by the Secretary and his determination of proper charges shall be final. Such review shall not change the due date for advance payments as herein provided and the cost of such review shall be borne equally by said two districts. The Imperial Irrigation District may at its option withhold delivery of water from the District until its proportionate share of the costs of operation and maintenance

has been advanced or paid, as in this article provided and until all sums due Imperial Irrigation District under Article 10 (c) hereof have been paid.

(c) Upon sixty (60) days written notice from the Secretary of the completion of construction of the Coachella Main Canal and appurtenant structures or of any major unit thereof useful to the District, as determined by the Secretary, whose determination thereof shall be final and binding on the parties hereto, the District shall assume the care, operation and maintenance of all such works north of the lowest turnout for East Mesa on said Coachella Main Canal, and thereafter the District shall, at its own cost and without expense to the United States, care for, operate and maintain the same in such manner that such works shall remain in as good and efficient condition and of equal capacity for the transportation and distribution of water as when received from the United States, reasonable wear and damage by the elements excepted.

Upon like notice Imperial Irrigation District may assume the care, operation and maintenance, at its own cost, of all works designated on said Exhibit "A" as "Main (All American) Canal to Imperial Valley", lying west of the southerly end of the Coachella Main Canal.

(d) After the care, operation and maintenance of any of the aforesaid works have been assumed by the District, the District shall save the United States, its officers, agents and employees harmless as to any and all injury and damage to persons and property which may arise out of the care, operation and maintenance thereof. In the event the United States fails to complete the works herein contemplated and the District fails to elect to make use of works theretofore partially or wholly constructed, the

District shall be fully relieved of any and all responsibility for any further operation and maintenance of any works theretofore taken over by the District for that purpose and thereupon the District shall no longer be responsible for said maintenance or operation or damage to person or property which may arise therefrom.

Keeping Diversion Dam, Main Canal and Appurtenant Structures in Repair

Article 9. Except in case of emergency no substantial change in any of the works to be constructed by the United States and transferred to either of said two districts under the provisions hereof or under said Imperial Contract shall be made by such district, without first having had and obtained the written consent of the Secretary and the Secretary's opinion as to whether any change in any such works is or is not substantial shall be conclusive and binding upon the parties hereto. Such district shall promptly make any and all repairs to and replacements of all said works transferred to it under the terms and conditions hereof or under said Imperial Contract which, in the opinion of the Secretary, are deemed necessary for the proper operation and maintenance of such works. In case of neglect or failure of such district to make such repairs, the United States may, at its option, after reasonable notice to such district, cause such repairs to be made and charge the actual cost thereof, plus fifteen per centum (15%) to cover overhead and general expense to such district operating the works so repaired. On or before September first of each calendar year the United States shall give written notice to such district operating such works of the amount expended by the United States for repairs under this

article during the twelve-month period immediately preceding. Such cost, plus overhead and general expense as stated above, shall be repaid by such district operating such works on March first immediately succeeding.

Agreement by District to pay for Works Constructed by the United States

Article 10. (a) The District agrees to pay the United States its share, as defined in sub-article (b) of this Article, of the actual cost, not exceeding thirty-eight million five hundred thousand dollars ($38,500,000.00), incurred by the United States on account of the Imperial Dam and All-American Canal, subject, however, to the provisions of Article seven (7) hereof; provided, that should Congress and other Governmental financing authorities fail to make necessary appropriations or allocations of money to complete the work herein provided for, then the Secretary may, at such reasonable time as he may consider advisable, after Congress and such other Governmental authorities shall have failed for five (5) consecutive years to make the necessary appropriations or allocations which shall have been annually requested by the Secretary, give the District notice of the termination of work by the United States and furnish a statement of the amount actually expended by the United States thereon. Upon the receipt of such notice by the District, the District shall be given two (2) years from and after such receipt of notice to elect whether it will utilize said works theretofore constructed hereunder, or some particular part thereof. Such election on the part of the District shall be expressed by resolution of the Board of Directors submitted to the

electorate of the District for approval or rejection in the manner provided by law for submission of contracts with the United States. If the District elects not to utilize, or fails within said two-year period to elect to utilize said works constructed hereunder, or some portion thereof, then the District shall have no further rights therein and no obligations therefor. If the District elects to utilize said works or a portion thereof, then the reasonable value to the District of the works so utilized, not exceeding the actual cost thereof to the United States, shall be paid by the District under the terms of this contract; the first payment to be due and payable on the first day of March following the first day of August next succeeding the final determination of the reasonable value to the District of such works, in case no further work is done by the District. Should the District elect to complete the work contemplated by this contract, or some portion thereof, the first payment shall be due and payable on the first day of March following the first day of August next suuceeding the date of final completion of the work by the District as determined by the Secretary. In determining the value of such works to the District there shall be taken into account, among other things, the method of financing required and cost of money, so that in no event shall all of the works contemplated by this contract cost the District more than they would have cost the District had they all been constructed by the United States under the terms of this contract. In the event of failure of the parties to agree as to the reasonable value to the District of the works which the District elects to use, the same shall be determined as provided in Article twenty-six (26) hereof.

(b) The amounts herein agreed to be paid by the District to the United States shall be in accordance with the following proportions, which proportions the Secretary hereby determines to be equitable and just, to-wit:

i. That proportion of the total cost of that part of said common works above Syphon Drop, excepting Laguna Dam, that the capacity provided for the District therein bears to the total capacity thereof less the capacity to be provided without cost to and for the Yuma project.

ii. That proportion of the total cost of each component part of all said common works, other than the part above Syphon Drop, that the capacity provided for the District in such part of said works bears to the total capacity thereof.

iii. The entire cost of all works North of the lowest turnout for East Mesa on the Coachella Main Canal.

(c) The District agrees to pay to the United States on the 31st day of December of each year commencing December 31, 1935, a portion (computed in the same manner as its share of costs of common works above Syphon Drop as agreed in Article 10 (b) i. hereof) of each of the annual payments (together with interest required thereon,) then or thereafter required to be made by Imperial Irrigation District to the United States for a connection with Laguna Dam, under its contract dated October 23, 1918, and under Article sixteen (16) of said Imperial Contract, or otherwise.

The Secretary hereby determines that it is equitable and just that the District pay, and the District agrees, expressly for the benefit of Imperial Irrigation District,

to pay Imperial Irrigation District the same proportion of the aggregate sum which shall have been paid by Imperial Irrigation District to the United States prior to December 31, 1935, for a connection with Laguna Dam, as aforesaid, as the proportion herein agreed to be paid by the District to the United States of payments hereafter to be made for said connection with Laguna Dam. The aggregate sum to be paid by the District to Imperial Irrigation District shall be divided into ten equal installments, payable annually on March first of each year, commencing on or before the year 1939, with interest from date hereof on unpaid balances at the rate of six per centum (6%) per annum, payable March 1st, 1936, and annually thereafter. At its option, the District may at any time pay any amount on principal of said aggregate sum in advance of the due date and interest on the amount so paid shall thereupon cease.

(d) The lands now in the District, which are also situate in the Coachella Service Area, as defined in Article seventeen (17) hereof, are designated and described in statement hereto attached, marked Exhibit "B" and by this reference made a part hereof. The Board of Directors of the District does hereby declare, determine and find, and has by the ordinance by which it authorized the execution of this contract, declared, determined and found that only that portion of the District within said area described in said Exhibit "B" is susceptible of service with water from the waterworks contemplated under this contract and that said area shall be and constitute Improvement District No. 1 of the District. Said Board of Directors does further declare, determine and find and has, by said ordinance, declared, determined and found that that portion of said Coachella Service Area not

now in the District, of which description is hereto attached, marked Exhibit "C" and by this reference made a part hereof, (hereinafter styled "Salton Area"), is also susceptible of service from said waterworks, and that if and when said area described in Exhibit "C" is added to the District, said area shall also be added to, and entitled to the same benefits and subject to the same obligations as the lands in said Improvement District No. 1. Said Board of Directors does further declare, determine and find and has, by said ordinance, declared, determined and found, that those certain lands in said Coachella Service Area and not now in the District, (i) shown on said Exhibit "A" as enclosed within a hatched border line and marked "Dos Palmas Area", of which description is hereto attached, marked Exhibit "D" and by this reference made a part hereof, and (ii) shown on said Exhibit "A" as bounded on the East, South and West by a like hatched border line and on the North by the North boundary line of Imperial County and lying West of Salton Sea, (herein styled "Fish Springs Area") of which description is hereto attached, marked Exhibit "E" and by this reference made a part hereof, are also susceptible of service from said waterworks and that if and when said Dos Palmas Area, or any part thereof, is added to the District, it shall be and constitute Improvement District No. 2 of the District, and that if and when said Fish Springs Area, or any part thereof, is added to the District, it shall be and constitute Improvement District No. 3 of the District.

All lands now or hereafter situate both in said Coachella Service Area and in the District are, as a whole, obligated to pay to the United States the full amount herein agreed upon, regardless of the default or failure of any tract,

or of any landowner, in the payment of the taxes levied by the District against such tract or landowner, and the District shall, when necessary, levy and collect appropriate taxes to make up for the default or delinquency of any such tract of land or of any such landowner in the payment of taxes, so that in any event, and regardless of any defaults or delinquencies in the payment of any tax or taxes, the amounts due or to become due the United States shall be paid to the United States by the District when due. No lands in the District shall be charged with any taxes or assessments under this contract except those situate within said Coachella Service Area, as defined in Article seventeen (17) hereof, or as thereunder modified.

The Improvement District above mentioned are hereby required to be constituted and created as nearly as may be, in the Manner prescribed in said County Water District Act for creation of Improvement Districts in County Water Districts in case of ordinary issuance of bonds.

Changes in Boundaries of Coachella Service Area

Article 11. After the date of this contract no change shall be made in the boundaries of the Coachella Service Area as defined in Article seventeen (17) hereof and the Board of Directors shall make no order changing the boundaries of said Coachella Service Area except as provided in said Article seventeen (17); provided, however, that the Secretary hereby consents to the inclusion in said Coachella Service Area of all of the lands described on Exhibits "B", "C", "D" and "E" hereto attached.

Terms of Payment

Article 12. The amount herein agreed to be paid to the United States shall be due and payable in not more

than forty (40) annual installments commencing with the calendar year next succeeding the year when notice of completion of all work provided for herein is given to the District or under the provisions of Article 10 (a) hereof upon termination of work through failure of Congress and other Governmental authorities to make necessary appropriations or allocations therefor. The first five (5) of such annual installments shall each be one per centum (1%) of the amount herein agreed to be paid to the United States; the next ten (10) of such installments shall each be two per centum (2%) of the amount herein agreed to be paid to the United States, and the remainder of such annual installments shall each be three per centum (3%) of the amount herein agreed to be paid to the United States. The sums payable annually as set forth above shall be divided into two (2) equal semi-annual payments, payable on March first and September first of each year; provided, however, that if notice of the completion of work is given to the District subsequent to August first of any year the first semi-annual installment of charges hereunder shall be due and payable on March first of the second succeeding year.

Operation and Maintenance Costs

Article 13. Each agency which hereafter contracts for capacity to be provided for it in Imperial Dam and All-American Canal and for which agency capacity is so provided shall bear such proportionate part of the cost of operation and maintenance (including repairs and replacements) of the component parts of Imperial Dam and All-American Canal and of the Laguna Dam as may be determined by the Secretary to be equitable and just, but not less than an amount in proportion to the total amount as are the relative capacities provided in each component

part for such agency and for all other agencies, including the District. Each such agency shall advance to each district operating any works provided to be used in common by such district and such agency on or before January first of each year, its proportionate share of the estimated cost for that year of operation and maintenance in accordance with a notice to be issued by such district, provided that payment shall in no event be due until thirty (30) days after receipt of notice. Prior to March 1st of each year each such district shall provide each agency with a statement showing in detail the costs for the previous year for operation and maintenance of the works on account of which such agency has made advances. Differences between actual costs and estimated costs shall be adjusted in next succeeding notices. Upon request of any agency, both the advance notice of estimated costs and the subsequent statement of actual costs for each year shall be reviewed by the Secretary and his determination of proper charges shall be final. Such review shall not change the due date for advance payments as herein provided, and the cost of such review shall be borne equally by the requesting agency and such district. Such district may, at its option, withhold the delivery of water from any agency until its proportionate share of the costs of operation and maintenance have been advanced or paid, as in this article provided.

Power Possibilities

Article 14. The power possibilities on the All-American Canal down to and including Syphon Drop with water carried for the benefit of the Yuma Project as provided for in Article fifteen (15) hereof, are hereby reserved to the United States. Subject to this reservation

and the participation by other agencies as provided for in Article twenty-one (21) hereof, the District shall have the privilege of utilizing by contract or otherwise, by means of the capacity to be provided for the District hereunder, such power possibilities, including those at or near Pilot Knob, as may exist upon said canal in proportion to its relative contribution or obligation toward the capital cost of said canal and appurtenent structures from and including the diversion works to the point where each respective power plant may be located; provided, that such privilege shall not interfere with the utilizing by Imperial Irrigation District of such power possibilities at or near Pilot Knob, by means of the capacity to be provided for Imperial Irrigation District in the All-American Canal from Syphon Drop to Pilot Knob, in excess of 8,500 cubic feet of water per second. The net proceeds as hereinafter defined in Article thirty-one (31) hereof, and as determined by the Secretary for each calendar year, from any power development which the District is hereunder authorized to make, shall be paid into the Colorado River Dam fund on March first of the next succeeding calendar year and be credited to the District on this contract until the District shall have paid thereby and/or otherwise an amount of money equivalent to that herein agreed to be paid to the United States. Thereafter such net power proceeds shall belong to the District. It is agreed that in the event the net power proceeds in any calendar year, creditable to the District, shall exceed the annual installment of charges payable under this contract during the then current calendar year, the excess of such net power proceeds shall be credited on the next succeeding unpaid installment to become due from the District under this contract.

Diversion and Delivery of Water for Yuma Project

Article 15. The District hereby consents that there be diverted at the Imperial Dam, and transported and delivered at Syphon Drop and/or such intermediate points as may be designated by the Secretary, the available water to which the Yuma Project (situated entirely within the United States and not exceeding in area 120,000 acres plus lands lying between the project levees and the Colorado River as such levees were located in 1931) is entitled, not exceeding two thousand (2,000) second-feet of water in the aggregate, or such part thereof as the Secretary may direct, for the use and benefit of said project, including the development of power at Syphon Drop, such water to be diverted, transported and delivered continuously in so far as reasonable diligence will permit; provided, however, that water shall not be diverted, transported or delivered for the Yuma Project when the Secretary notifies Imperial Irrigation District that said project for any reason may not be entitled thereto; provided, further, that there may be diverted, transported and delivered such water in excess of requirements for irrigation or potable purposes, as determined by the Secretary, on the Yuma Project as so limited, only when such water is not required by the District for irrigation or potable purposes. The diversion, transportation and delivery of water for the Yuma Project as aforesaid shall be without expense to the United States or its successors in control of said project, as to capital investment required to provide facilities for such diversion and transportation of water except such checks, turnouts and other structures required for delivery from said canal.

Contract of October 23, 1918

Article 16. That certain contract between the United States of America and Imperial Irrigation District, bearing date of October 23, 1918, providing for a connection with Laguna Dam, having been terminated, except as to the provisions of Article nine (9) thereof, by said Imperial Contract, the District hereby consents to such partial termination of said first mentioned contract. The District hereby consents that there be furnished to the United States or its successors in interest in the control, operation and maintenance of the Yuma Project, from any power development on the All-American Canal at or near Pilot Knob, up to but not to exceed four thousand horsepower of electrical energy for use by the agency in charge of project operations for irrigation and drainage pumping purposes and necessary incidental use on said Yuma Project, such power to be furnished at cost (including overhead and general expense) plus ten per cent; provided, however, that such power at or near Pilot Knob shall not be required to be furnished except at such times as all power feasible of development at Syphon Drop or developed elsewhere within a radius of 40 miles from the City of Yuma for the benefit of the Yuma Project is being used for project operations as in this article specified.

Delivery of Water by United States

Article 17. The United States shall, from storage available in the reservoir created by Boulder Dam, deliver to or for the District, for the benefit of the lands under or that will be served from the All-American Canal in Coachella Valley, now or hereafter within the District and lying within the Coachella Service Area, hereinafter defined, each year, at a point in the Colorado River im-

mediately above Imperial Dam, so much water as may be necessary to supply the District a total quantity, including all other waters diverted for use within the District from the Colorado River, in the amounts and with priorities in accordance with the recommendation of the Chief of the Division of Water Resources of the State of California, as follows: (Subject to availability thereof for use in California under the Colorado River Compact and the Boulder Canyon Project Act):

> The waters of the Colorado River available for use within the State of California under the Colorado River Compact and the Boulder Canyon Project Act shall be apportioned to the respective interests below named and in amounts and with priorities therein named and set forth, as follows:
>
> Section 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said District as it now exists and upon lands between said District and the Colorado River, aggregating (within and without said District) a gross area of 104,500 acres, such waters as may be required by said lands.
>
> Section 2. A second priority to Yuma Project of the United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land located in said project in California, such waters as may be required by said lands.
>
> Section 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adja-

cent to Palo Verde Irrigation District, for beneficial consumptive use, 3,850,000 acre-feet of water per annum less the beneficial consumptive use under the priorities designated in Sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in Sections 1, 2 and 3 of this article shall not exceed 3,850,000 acre feet of water per annum.

Section 4. A fourth priority to the Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre-feet of water per annum.

Section 5. A fifth priority (a) to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre-feet of water per annum and (b) to the City of San Diego and/or County of San Diego, for beneficial consumptive use, 112,000 acre-feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa," adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 300,000 acre-feet of water

per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 7. A seventh priority of all remaining water available for use within California, for agricultural use in the Colorado River Basin in California, as said basin is designated on Map No. 23000 of the Department of the Interior, Bureau of Reclamation.

Section 8. So far as the rights of the allottees named above are concerned, the Metropolitan Water District of Southern California and/or the City of Los Angeles shall have the exclusive right to withdraw and divert into its aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said District and/or said City (not exceeding at any one time 4,750,000 acre-feet in the aggregate) by reason of reduced diversions by said District and/or said City; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between said District and/or said City and such users resulting therefrom.

Section 9. In addition, so far as the rights of the allottees named above are concerned, the City of San Diego and/or County of San Diego shall have the exclusive right to withdraw and divert into an aqueduct any water in Boulder Canyon Reservoir ac-

cumulated to the individual credit of said City and/or said County (not exceeding at any one time 250,000 acre-feet in the aggregate) by reason of reduced diversions by said City and/or said County; provided, that accumulations shall be subject to such conditions as to accumulations, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between the said City and/or said County and such users resulting therefrom.

Section 10. In no event shall the amounts allotted in this agreement to the Metropolitan Water District of Southern California and/or the City of Los Angeles be increased on account of inclusion of a supply for both said District and said City, and either or both may use said apportionments as may be agreed by and between said District and said City.

Section 11. In no event shall the amounts allotted in this agreement to the City of San Diego and/or to the County of San Diego be increased on account of inclusion of a supply for both said City and said County, and either or both may use said apportionments as may be agreed by and between said City and said County.

Section 12. The priorities hereinbefore set forth shall be in no wise affected by the relative dates of water contracts executed by the Secretary of the Interior with the various parties.

The Secretary reserves the right to, and the District agrees that he may, contract with any of the allottees above named in accordance with the above stated recommendation, or, in the event that such recommendation as to Palo Verde Irrigation District is superseded by an agreement between all the above allottees or by a final judicial determination, to contract with the Palo Verde Irrigation District in accordance with such agreement or determination; Provided, that priorities numbered fourth and fifth shall not thereby be disturbed.

The use of water by the District shall be in conformity to the following provisions of that certain agreement executed between the District and Imperial Irrigation District dated February 14th, 1934, hereinabove in Article 4 (c) referred to, to-wit:

> "Imperial Irrigation District shall have the prior right for irrigation and potable purposes only, and exclusively for use in the Imperial Service Area, as hereinafter defined or hereunder modified, to all waters apportioned to said Imperial Irrigation District and other lands under or that will be served from the All-American Canal in Imperial and Coachella Valleys as provided in the third and sixth priorities set out in the recommendation of the Chief of the Division of Water Resources of the State of California, as contained in Article 17 of the Imperial Contract. Subject to said prior right of Imperial Irrigation District, Coachella Valley County Water District shall have the next right, for irrigation and potable purposes only and exclusively for use in the Coachella Service Area, as hereinafter defined or hereunder modified, to all waters so apportioned to said Imperial Irrigation District and other lands under or that will

be served from the All-American Canal in the Imperial and Coachella Valleys, as provided in said third and sixth priorities. The use of water for generation of electric energy shall be, in all respects, secondary and subservient to all requirements of said two districts for irrigation and potable purposes as above limited.

As hereinabove used, the term 'Imperial Service Area' shall comprise all lands within the boundaries of Imperial Irrigation District as said District was constituted on June 23, 1931, and all lands in Imperial and San Diego Counties, California, shown on Map marked Exhibit 'A', attached to said Imperial Contract, and included within hatched border lines indicated on said map by legend as 'Boundary of Additional Areas in Proposed Enlarged Imperial Irrigation District', other than (a) such of said lands as are labeled 'Dos Palmas Area' and (b) such of said lands as lie West of Salton Sea and North of the Northerly boundary line of Township 11, South of the San Bernardino Base Line. The term 'Coachella Service Area' shall comprise all lands described on statements hereto attached and marked Exhibits 'B', 'C', 'D' and 'E', respectively,"

(Said Exhibits "B", "C", "D" and "E" being identical with Exhibits "B", "C", "D" and "E" attached to this contract between the District and the United States),

"being approximately, but not exactly, the lands within said hatched border lines shown on said Exhibit 'A', other than those included in said Imperial Service Area. Upon application of either District and with the written consent of the Secretary of the Interior, the boundaries of the service area which

such district is entitled hereunder to serve may at any time or from time to time be changed, but may not be so changed as, in the aggregate, to add more than 5000 acres to, nor to subtract more than 5000 acres from such service area, as herein defined, without the written consent of the district entitled hereunder to serve the other service area."

As far as reasonable diligence will permit said water shall be delivered as ordered by the District, and as reasonably required for potable and irrigation purposes within said Coachella Service Area. This contract is for permanent water service but is subject to the condition that Boulder Dam and Boulder Canyon Reservoir shall be used; First, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and satisfaction of perfected rights in pursuance of Article VIII of the Colorado River Compact; and third, for power. This contract is made upon the express condition and with the express covenant that the District and the United States shall observe and be subject to, and controlled by said Colorado River Compact, in the construction, management and operation of Boulder Dam, Imperial Dam, All-American Canal, and other works and the storage, diversion, delivery and use of water for the generation of power, irrigation, and other purposes. The United States reserves the right to temporarily discontinue or reduce the amount of water to be delivered for the purpose of investigation, inspection, maintenance, repairs, replacements or installation of equipment and/or machinery at Boulder Dam, but as far as feasible the United States will give the District reasonable notice in advance of such temporary discontinuance or reduction. The United States, its officers, agents and

employees shall not be liable for damages when, for any reason whatsoever, suspension or reductions in delivery of water occur. This contract is without prejudice to any other or additional rights which the District may now have not inconsistent with the foregoing provisions of this article, or may hereafter acquire in or to the waters of the Colorado River. Subject to the provisions of Article fourteen (14) hereof, nothing in this contract shall be construed to prevent the diversion by or for the District of water to the full capacity herein provided for it in the All-American Canal if and when water over and above the quantity apportioned to it hereunder is available, and no power development at Imperial and/or Laguna Dam shall be permitted to interfere with such diversion by or for said District, but, except as provided in Article Twenty-one (21) hereof, water shall not be diverted, transported nor carried by or through Imperial Dam or All-American Canal for any agency other than the District or Imperial Irrigation District, except by written consent of the Secretary.

Measurement of Water

Article 18. The water which the District receives under the apportionment as provided in Article seventeen (17) hereof shall be measured at such point or points on the canal as may be designated by the Secretary. Measuring and controlling devices shall be furnished and installed by the United States as a part of the work provided for herein, but shall be operated and maintained by and at the expense of the district, or districts, operating the works. They shall be and remain at all times under the complete control of the United States, whose authorized representatives may at all times have access to them over the lands and rights-of-way of the District.

Record of Water Diverted

Article 19. The District shall make full and complete written reports as directed by the Secretary, on forms to be supplied by the United States, of all water diverted from the Colorado River, and delivered to the District, and the disposition thereof. The records and data from which such reports are made shall be accessible to the United States on demand of the Secretary.

Refusal of Water in Case of Default

Article 20. The United States reserves the right to refuse to deliver water to the District in the event of default for a period of more than twelve (12) months in any payment due the United States under this contract, or in the discretion of the Secretary, to reduce deliveries in such proportion as the amount in default by the District bears to the total amount due. It is understood, however, that the provisions of this article shall not relieve the District of its obligation hereunder to divert, transport and deliver water for the use and benefit of other agencies with whom the United States may contract for the diversion, transportation and delivery of water through or by the works to be constructed under the terms hereof. The United States further reserves the right to forthwith assume control of all or any part of the works to be constructed hereunder and to care for, operate and maintain the same, so long as the Secretary deems necessary or advisable, if, in his opinion, which shall be final and binding upon the parties hereto, the District does not carry out the terms and conditions of this contract to their full extent and meaning. In such event, the District's pro rata share of the actual cost of such care, operation and maintenance by the United

States shall be repaid to the United States, plus fifteen per centum (15%) to cover overhead and general expense, on March first of each year immediately succeeding the calendar year during which said works are operated and maintained by the United States. Nothing herein contained shall relieve the District of the obligation to pay in any event all installments and penalties provided in this contract.

Use of Works by the United States and Others

Article 21. The United States also reserves the right to, and the District agrees that it may, at any time prior to the transfer of constructed works to the District or Imperial Irrigation District for operation and maintenance, increase the capacity of such works and contract for such increased capacity with other agencies for the delivery of water for use in the United States. Such other agencies shall have the privilege at any time of utilizing by contract or otherwise, such power possibilities as may exist upon said canal in proportion to their respective contributions or obligations toward the capital cost of said canal and appurtenant structures from and including the diversion works to the point where each respective power plant may be located. In the event other agencies thus contract with the United States, each of such agencies shall assume such proportion of the total cost of said works to be used jointly by such agency and the District, including Laguna Dam, as the Secretary may determine to be equitable and just but not less than the proportion that the capacity provided for such agency in such works bears to the total capacity thereof (except in that part thereof above Syphon Drop including Laguna Dam, in which part the proportion which such other agency shall assume shall be not less than the proportion

that the capacity provided for such agency therein bears to the total capacity thereof less the capacity to be provided without cost to and for the Yuma Project) and the District's financial obligations under this contract shall be adjusted accordingly. In no event shall construction costs chargeable to the District be increased by reason of additional capacity being provided for any such agency or agencies or contract or contracts having been made with same. Any such agency thus contracting shall also be required to reimburse the District in such amounts and at such times as the Secretary may determine to be equitable and just for payments theretofore made by the District for the right to use Laguna Dam.

Title to Remain in the United States

Article 22. Title to the aforesaid Imperial Dam and All-American Canal shall be and remain in the United States notwithstanding transfer of the care, operation and maintenance thereof to said two districts, or either of them; provided, however, that the Secretary may, in his discretion, when repayment to the United States of all moneys advanced shall have been made, transfer the title to said main canal and appurtenant structures except the diversion dam and the main canal and appurtenant structures down to and including Syphon Drop, to the districts or other agencies of the United States having a beneficial interest therein in proportion to their respective capital investments under such form of organization as may be acceptable to him.

Rules and Regulations

Article 23. There is reserved to the Secretary the right to prescribe and enforce rules and regulations not inconsistent with this contract governing the diversion and

delivery of water hereunder to or for the District and to other contractors. Such rules and regulations may be modified, revised and/or extended from time to time after notice to the District and opportunity for it to be heard, as may be deemed proper, necessary or desirable by the Secretary to carry out the true intent and meaning of the law and of this contract, or amendments thereof, or to protect the interests of the United States. The District hereby agrees that in the operation and maintenance of the Imperial Dam and All-American Canal, all such rules and regulations will be fully adhered to by it.

Inspection by the United States

Article 24. The Secretary may cause to be made from time to time a reasonable inspection of the works constructed by the United States to the end that he may ascertain whether the terms of this contract are being satisfactorily executed by the District. Such proportion of the actual expense of such inspection in any calendar year, as shall be found by the Secretary to be equitable and just, shall be paid by the District to the United States on March first of each year immediately following the year in which such inspection is made, and upon statement to be furnished by the Secretary. The Secretary or his representative shall at all times have the right of ingress to and egress from all works of the District for the purpose of inspection, repairs and maintenance of works of the United States, and for all other purposes.

Access to Books and Records

Article 25. The officials or designated representatives of the District shall have full and free access to the books and records of the United States, so far as they relate to the matters covered by this contract, with the right

at any time during office hours to make copies of and from the same; and the Secretary shall have the same right in respect of the books and records of the District.

Disputes or Disagreements

Article 26. Disputes or disagreements as to the interpretation or performance of the provisions of this contract, except as otherwise provided herein, shall be determined either by arbitration or court proceedings, the Secretary being authorized to act for the United States in such proceedings. Whenever a controversy arises out of this contract, and the parties hereto agree to submit the matter to arbitration, the District shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within thirty (30) days after their first meeting, such arbitrators not so elected, shall be named by the Senior Judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

Interest and Penalties

Article 27. No interest shall be charged on any installments of charges due from the District hereunder except that on all such installments or any part thereof, which may remain unpaid by the District to the United States after the same become due, there shall be added to the amount unpaid a penalty of one-half of one per centum (½%) and a like penalty of one-half of one per centum (½%) of the amount unpaid shall be added on the first day of each month thereafter so long as such default shall continue.

Agreement Subject to Colorado River Compact

Article 28. This contract is made upon the express condition and with the express understanding that all rights based upon this contract shall be subject to and controlled by the Colorado River Compact, being the compact or agreement signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes," which compact was approved by the Boulder Canyon Project Act.

Application of Reclamation Law

Article 29. Except as provided by the Boulder Canyon Project Act, the reclamation law shall govern the construction, operation and maintenance of the works to be constructed hereunder.

Contract to be Authorized by Election and Confirmed by Court

Article 30. The execution of this contract by the District shall be authorized by the qualified electors of the District at an election held for that purpose. Thereafter, without delay, the District shall prosecute to judgment proceedings in court for a judicial confirmation of the authorization and validity of this contract. The United States shall not be in any manner bound under the terms and conditions of this contract unless and until a confirmatory final judgment in such proceedings shall have been rendered, including final decision, or pending

appellate action if ground for appeal be laid. The District shall without delay and at its own cost and expense furnish the United States for its files, copies of all proceedings relating to the election upon this contract and the confirmation proceedings in connection therewith, which said copies shall be properly certified by the Clerk of the Court in which confirmatory judgment is obtained.

Method of Determining Net Power Proceeds

Article 31. In determining the net proceeds for each calendar year from any power development which the district is hereunder authorized to make, on the All-American Canal, to be paid into the Colorado River Dam fund as provided in Article fourteen (14) hereof, there shall be taken into consideration all items of cost of production of power, including but not necessarily limited to amortization of and interest on capital investment in power development, replacements, improvements, and operation and maintenance, if any. Any other proper factor of cost not here expressly enumerated may be taken into account in determining the net proceeds.

Contingent upon Appropriations

Article 32. This contract is subject to appropriations or allocations being made by Congress or other Governmental financing authority from year to year of moneys sufficient to do the work provided for herein, and to there being sufficient moneys available in the Colorado River Dam fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents or employees, by reason of sufficient moneys not being so appropriated nor on account of there not being sufficient

moneys in the Colorado River Dam fund to permit of said allotments. If more than three years elapse after this contract becomes effective and before appropriations or allocations are available to permit the United States to make expenditures hereunder, the District may, at its option, upon giving sixty (60) days written notice to the Secretary, cancel this contract. Such option shall be expressed by vote of the electors of the District with the same formalities as required for the authorization of contracts with the United States.

Addition of Lands to District

Article 33. (a) The District agrees to change its boundaries, subject to presentation to its Board of Directors before January 1, 1940, of lawful and sufficient petition or petitions therefor and the approval of the electors, so as to add to the District and to its Improvement District No. 1 all lands lying within the Salton Area, referred to in Article 10 (d) hereof.

(b) Whenever any of said lands within the Coachella Service Area are added to the District, the Secretary, on behalf of the United States, hereby consents to such addition. Nothing contained in this contract shall impair any right or remedy of any person entitled to object or protest against the addition to the District of any particular tract or tracts of land, nor impair the power of the Board to hear and determine any such objections or protests.

(c) Nothwithstanding anything herein contained, the District may, at its option, change its boundaries so as to add to the District all or any part of the Dos Palmas Area, and/or of the Fish Springs Area, referred to in Article 10 (d) hereof. In the event any lands within

said Dos Palmas Area or Fish Springs Area shall be added to the District such addition shall be made upon conditions substantially as hereinafter contained and as and when authorized by law, and the Secretary on behalf of the United States hereby requires and consents to such conditions, to-wit:

CONDITION No. 1

Contribution to Capital Costs

The lands within each Improvement District shall collectively bear that proportion of all costs of the Imperial Dam, and All-American Canal, including Laguna Dam, herein agreed to be borne by the District, which the area within such Improvement District bears to the total area of the Coachella Service Area from time to time within the District.

CONDITION No. 2

Contribution to Costs Paid by District

Each Improvement District, other than Improvement District No. 1 shall bear, in the proportion set out in Condition No. 1, its share of all capital costs of the Imperial Dam and All-American Canal, including Laguna Dam, paid by the District prior to the first District tax collection from the lands within such Improvement District and shall pay such share to the District in such installments and at such times as shall be determined by resolution of the Board of Directors of the District to be just and equitable. Upon collection of said sums by the District, the portions of the Coachella Service Area by which said sums were originally paid shall thereupon be entitled to reimbursement or credit in such manner as may be determined by said Board.

CONDITION NO. 3

Distribution System

Each Improvement District shall bear the entire capital cost of any distribution system which may be constructed by or under the authority of the District to serve the lands within such Improvement District but shall not be required to bear any part of the capital cost of any distribution system to serve the lands within any other Improvement District.

CONDITION NO. 4

Taxation

All charges hereunder to be borne by each Improvement District unless otherwise collected from the lands therein, shall be a part of but in addition to the annual taxes upon said lands for other District purposes and shall constitute an additional annual charge upon said lands, to be levied upon an ad valorem or other basis as now or hereafter provided by law.

Rights Reserved Under Section 3737 Revised Statutes

Article 34. All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Remedies Under Contract not Exclusive

Article 35. Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States, the District or Imperial Irrigation District of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have. The

waiver of a breach of any of the provisions of this contract shall not be deemed to be a waiver of any other provision hereof or of a subsequent breach of such provision.

Interest in Contract Not Transferable

Article 36. No interest in this contract is transferable by the District to any other party, and any such attempted transfer shall cause this contract to become subject to annulment at the option of the United States.

Member of Congress Clause

Article 37. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

Contract Void If Certain Lands Included in Imperial Irrigation District

Article 38. In the event lawful petition or petitions sufficient in all respects for inclusion within Imperial Irrigation District of ninety per centum (90%) of the lands shown on said Exhibit "A" lying North of the Northerly boundary line of Township Eleven (11), South of the San Bernardino Base Line and bounded by the lines indicated on said Exhibit "A" as "Boundary of Additional Areas in Proposed Enlarged Imperial Irrigation District", exclusive of the Dos Palmas area and exclusive of Indian lands and public lands of the United States shall be filed pursuant to and within the time limited by said Imperial Contract, and said lands shall be thereafter included within said Imperial Irrigation

District pursuant to such petition or petitions, then, as of the date of such inclusion, this contract shall terminate and be at an end.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA
By HAROLD L. ICKES
Federal Emergency Administrator of Public Works and Secretary of the Interior.

COACHELLA VALLEY COUNTY WATER DISTRICT
By HARRY W. FOSTER
President.

Attest:

THELMA SCHISLER
Secretary.

(The following exhibits, annexed to the foregoing contract, are omitted here because of limitations of space:

Exhibit A: "Bureau of Reclamation map No. 212-D-112, dated at Denver, Colorado, June 23, 1931, and entitled 'Boulder Canyon Project—All-American Canal System'."

Exhibit B: "Description of lands within Coachella Valley County Water District and its improvement district No. 1 and within the Coachella service area."

Exhibit C: "Description of lands outside Coachella Valley County Water District and within the Coachella service area, designated the Salton Area."

Exhibit D: "Description of lands outside Coachella Valley County Water District and within the Coachella service area, designated the Dos Palmas area."

Exhibit E: "Description of lands outside Coachella Valley County Water District and within the Coachella service area, designated the Fish Springs area.")

APPENDIX NO. 17

WATER DISTRIBUTION CONTRACT: UNITED STATES AND COACHELLA VALLEY COUNTY WATER DISTRICT

December 22, 1947

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
BOULDER CANYON PROJECT
ALL-AMERICAN CANAL
COACHELLA VALLEY COUNTY WATER DISTRICT

Contract for Construction of Distribution System, Protective Works, and Drainage Works

1. **This Contract,** made this 22nd day of December, 1947, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Reclamation Law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat. 1057), designated the Boulder Canyon Project Act, the Act of Congress approved May 10, 1939 (53 Stat. 635, 718), designated the Interior Department Appropriation Act, 1940, the Act of Congress approved August 4, 1939 (53 Stat. 1187), designated the Reclamation Project Act of 1939, and the Act of Congress approved June 26, 1947 (Public Law 121, 80th Cong., 1st Session), between **The United States of America,** hereinafter referred to as the "United States", acting for this purpose by ~~J. A. Krug,~~ William E. Warne, Assistant Secretary of the Interior, hereinafter referred to as the "Secretary", and **Coachella Valley County Water District,** a County Water District

created, organized and existing under and by virtue of the County Water District Act of the State of California, and acts amendatory thereof or supplementary thereto, with its principal place of business at Coachella, Riverside County, California, hereinafter referred to as the "District".

Witnesseth That:

Explanatory Recitals

2. **Whereas,** pursuant to the provisions of the Reclamation Law and particularly pursuant to the provisions of the Boulder Canyon Project Act, the United States and the District have heretofore entered into a contract of date October 15, 1934 (Symbol and No. I1r-781), entitled "Contract for Construction of Capacity in Diversion Dam, Main Canal and Appurtenant Structures and for Delivery of Water"; and

3. **Whereas,** in addition to the works which the United States agreed to construct for the use and benefit of the District, as provided by the aforesaid contract of October 15, 1934, which said works, or portions thereof, are now completed or in course of construction, the District has requested that the United States also construct for use in connection therewith and in addition thereto (a) a distribution system for the benefit of the District and those lands that will be served with water from the All-American Canal in Coachella Valley, now or hereafter within the District and lying within the Coachella Service Area defined in Article 17 of said contract of October 15, 1934; (b) an appurtenant system of protective works for the protection of said distribution system, the Main (All-American) Canal to Coachella Valley, and lands and other properties below the Canal from overflow or other damage by storm

waters or surface waters from above the Canal; and (c) has also requested the United States to participate in the conduct of field investigations and analyses of data incidental to the preparation by the District of designs for the construction by the District of such drainage works as may hereafter be required for lands now or hereafter within the District and the Coachella Service Area; and

4. **Whereas,** the United States is willing to undertake the construction of the aforementioned distribution system and the appurtenant system of protective works and is willing to participate in investigations and studies preliminary to the construction by the District of said drainage works, all under the conditions hereinafter set forth; and

5. **Whereas,** the estimated total cost of said distribution system, appurtenant system of protective works and drainage investigations and studies is Eighteen Million Dollars ($18,000,000), of which cost the Secretary has heretofore allocated to the purpose of flood control the sum of Four Million Five Hundred Thousand Dollars ($4,500,000), said last mentioned sum to be non-repayable and non-returnable to the United States; and

6. **Whereas,** the Secretary has determined, and does hereby determine, that the revenues provided for by this contract are adequate in his judgment to insure payment of all repayable and returnable expenses of construction, operation and maintenance of the works to be constructed by the United States under the terms hereof, as well as other work to be performed by the United States hereunder, in the manner provided in the Reclamation Law; and

7. **Whereas,** the District will, at its own expense, construct such drainage works as may hereafter be required

for the lands now or hereafter within the District and lying within the said Coachella Service Area;

Now, Therefore, in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to wit:

Modification of Contract Dated October 15, 1934

8. (a) As one of the considerations for the execution of this contract by the United States it is agreed that the Main (All-American) Canal to Coachella Valley (hereinafter styled "Coachella Main Canal"), shall terminate at Engineer Station 6517, a point near 57th Ave., as shown on Exhibit "A" attached hereto and by this reference made a part hereof, instead of at the boundary line common to Riverside and Imperial Counties, as shown on Exhibit "A" attached to the aforesaid contract dated October 15, 1934. As so shortened, said Coachella Main Canal shall be constructed in the approximate location shown on Exhibit "A", hereto attached, with such capacities as the Secretary may conclusively determine to be necessary or advisable upon engineering or economic considerations to accomplish the ends contemplated by the aforesaid contract of October 15, 1934, as amended by this contract; provided, however, that such changes in capacities, locations, lengths and alignments may be made during the progress of the work as may, in the opinion of the Secretary, whose opinion shall be final and binding upon the parties hereto, be expedient, economical, necessary or advisable.

(b) Notwithstanding any of the terms or provisions of the aforesaid contract dated October 15, 1934, all work agreed to be performed by the United States thereunder shall be deemed to be completed upon whichever of the following described dates shall first occur:

(1) The date of expiration of five years from and after the date of acceptance by the United States of the work called for by its contract with Otto B. Ashbach and Sons, dated January 10, 1947 (Symbol and Number I2r-17147), for construction of earthwork, concrete canal lining and structures between Engineer Stations 6106+06 and 6517+00 on the Coachella Main Canal, or

(2) The date of completion of the distribution system hereinafter described in Article 9(a)(i) of this contract, as determined by the Secretary, whose determination thereof shall be final and binding upon the parties hereto.

(c) Following receipt by the District of notice of completion of all work provided for by the aforesaid contract dated October 15, 1934, as determined under the provisions of this contract, payment for such work shall be due and payable from the District to the United States in accordance with the terms of said contract dated October 15, 1934.

Construction by the United States and the District

9. (a) In addition to the construction of the works agreed to be constructed by the United States for the use and benefit of the District under the provisions of the aforesaid contract of date October 15, 1934, as amended by Article 8 of this contract, the United States will also, subject to the provisions of Articles 12 and 32 hereof, construct for use in connection therewith:

(i) A distribution system at the approximate locations indicated on the map marked Exhibit "A", attached hereto and by this reference made a part hereof. Said distribution system shall consist generally

of open, concrete-lined or asphaltic-lined canals and concrete pipe laid underground, with capacities as indicated in said Exhibit "A", pumping plants as indicated in said Exhibit and such other appurtenant and auxiliary structures as the Secretary may conclusively determine to be necessary or advisable upon engineering or economic considerations to accomplish the ends contemplated by such distribution system; provided, however, that changes in capacities, locations, lengths and alignments of said distribution system works may be made during the progress of the work and after consultation with the District, as may in the opinion of the Secretary, whose opinion thereof shall be final and binding upon the parties hereto, be expedient, economical, necessary or advisable; and

(ii) A system of protective works designed to protect the Coachella Main Canal, the distribution system herein provided for and lands and other properties below the Canal from overflow or other damage by storm waters or surface waters. Said protective works shall consist of, but need not be limited to, such dams, dikes, levees, embankments, catchment basins, bridges, causeways, roads, culverts, flumes, syphons, waterways, evacuation and dispersion channels, and other works, as indicated in said Exhibit "A", as the Secretary may conclusively determine to be necessary or advisable upon engineering or economic considerations to accomplish the ends contemplated by such system of protective works; provided, that changes in capacities, locations, lengths and alignments of said protective works or structures may be made during the progress of the work and after consultation with the District, as may in the opinion of

the Secretary, whose opinion thereof shall be final and binding upon the parties hereto, be expedient, economical, necessary or advisable.

(b) The District hereby agrees to construct such drainage works as may be necessary for the drainage of lands now or hereafter within the District and the Coachella Service Area. To the extent that the Secretary may conclusively determine to be necessary or advisable, the United States shall participate in the conduct of field investigations and analyses of data incidental to the preparation, by the District, of designs for the construction by the District of such drainage works. Construction plans and specifications prepared by the District for the construction from time to time of units of said drainage works shall be subject to the concurrence of the United States; provided, however, that the cost to the District of such participation by the United States shall in no event exceed the sum of One Hundred Fifty Thousand Dollars ($150,000).

(c) The ultimate cost to the District of the work herein agreed to be performed by the United States shall in no event exceed the aggregate sum of Thirteen Million Five Hundred Thousand Dollars ($13,500,000). Such cost shall include all expenses of whatsoever kind or nature heretofore or hereafter incurred by the United States from the Reclamation Fund, the Colorado River Dam Fund, or otherwise, in connection with, growing out of or resulting from the work herein agreed to be performed by the United States, including, but not limited to, the cost of labor, materials, equipment, engineering, legal work, superintendence, administration, overhead, any and all costs arising from operation and maintenance of works to be constructed by the United States under the terms hereof prior to the time said operation and maintenance costs are assumed

by the District, damage of all kinds and character, and the costs of rights-of-way and destroyed improvements, as hereinafter provided.

(d) The United States will invoke all legal and valid reservations of rights-of-way under Acts of Congress, or otherwise reserved or held by it, without cost to the District, except that the United States reserves the right, where rights-of-way are thus acquired, to reimburse the owners of the servient lands for the value of improvements which may be destroyed, and the District agrees that the United States may include such disbursements in the cost of work performed by the United States hereunder, as provided in subdivision (c) of this Article.

(e) The District shall convey to the United States, without cost, unencumbered fee simple title to any and all lands owned by it which, in the opinion of the Secretary, may be required for right-of-way purposes for the works constructed by the United States hereunder.

(f) Where rights-of-way are required for those works described in subdivision (a) (i) of this Article, and such rights-of-way are not reserved to the United States under Acts of Congress or otherwise, or the lands over which such rights-of-way are required are not then owned by the District, the District shall, upon request of the Secretary, acquire title to such lands or perpetual easements therein, required for such purpose, and in turn convey unencumbered fee simple title thereto or perpetual easements therein to the United States, at the actual cost thereof to the District, including the actual cost of legal and title expenses incurred by the District, subject to the approval of such costs by the Secretary. In case of neglect or failure of the District, upon request of the Secretary, so to acquire and convey any lands or perpetual easements de-

termined by him to be necessary for the construction of such works, the United States may acquire the same and charge the actual cost thereof, including the actual cost of legal and title expenses incurred by the United States, to the District. All sums reimbursed to the District by the United States under the provisions of this subdivision of this Article shall be included in the cost of work performed by the United States hereunder, as provided in subdivision (c) of this Article.

(g) Where rights-of-way are required for those works described in subdivision (a) (ii) of this Article, and the lands over which such rights-of-way are required are not then owned by the United States or by the District, the District shall, upon request of the Secretary, acquire title to such lands or perpetual easements therein, required for such purpose, and in turn convey unencumbered fee simple title thereto or perpetual easements therein, without cost, to the United States. In case of neglect or failure of the District, upon request of the Secretary, so to require and convey any lands or perpetual easements determined by him to be necessary for the construction of those works described in subdivision (a) (ii) of this Article, the United States may acquire the same and charge the actual cost thereof, including the actual cost of legal and title expenses incurred by the United States, to the District. On or before October 1 of each calendar year, the United States will give written notice to the District of the amount expended by the United States under the provisions of this subdivision of this Article during the twelve-month period ending on September 1 next preceding, and such amount shall be repaid to the United States by the District on March 1 next following.

Operation and Maintenance of Constructed Works

10. (a) The District shall assume the care, operation and maintenance of the works herein agreed to be constructed by the United States, or any major part thereof completed and ready for use, as determined by the Secretary, whose determination thereof shall be final and binding upon the parties hereto, upon sixty (60) days' written request therefor made by the Secretary at any time subsequent to the completion of construction of said works or any such major part thereof. Thereafter, except as herein otherwise provided, the District shall, at its own cost and without expense to the United States, care for and operate and maintain the same in such manner that such works shall remain in as good and efficient condition and of equal capacity for the diversion, transportation and distribution of water, and for the protection of the Coachella Main Canal, the distribution system herein provided for and lands and other properties below the main canal from overflow or other damage by storm waters, or surface waters, as when received from the United States, reasonable wear and damage by the elements excepted, and shall use all practicable methods to insure the economical and beneficial use of water. After the care, operation and maintenance of any such works shall have been assumed by the District, the District shall save the United States, its officers, agents, attorneys and employees, harmless as to any and all injury and damage to persons and property which may arise out of the care, operation and maintenance thereof.

(b) During the repayment period of this contract, if, in the opinion of the Secretary, whose opinion shall be final and binding upon the parties hereto, the District, at any time, shall have failed to perform substantially

any provision of this contract, the United States may, on sixty (60) days' written notice to the District, resume the control of any such works and thereafter care for, operate and maintain the same. In such event the District shall advance to the United States within fifteen (15) days after written demand by the Secretary, the estimated cost of such care, operation and maintenance by the United States, plus fifteen per centum (15%) to cover overhead and general expense, during the period commencing with the date that the care, operation and maintenance of such works is assumed by the United States and terminating on the first day of March next succeeding. During such time thereafter as the United States shall retain the operation and maintenance of such works, the District shall advance to the United States on March first of each year, upon estimates therefor to be furnished by the United States on or before September first next preceding, the estimated cost of operation and maintenance, plus fifteen per centum (15%) to cover overhead and general expense, for the following twelve (12) months. If the amount advanced by the District for any period shall prove to be insufficient to pay the cost of operation and maintenance by the United States during such period, the amount of such deficiency shall be paid forthwith by the District to the United States upon notice thereof and demand therefor by the Secretary. The surplus of any amount so advanced by the District for operation and maintenance by the United States during any period shall be credited on the estimated cost of operation and maintenance by the United States during the succeeding period. Any surplus of any advances made by the District for operation and maintenance which shall remain unexpended and un-

obligated for such purpose by the United States at such time as the care, operation and maintenance of the works are returned to the District shall be refunded to the District. Nothing herein contained shall relieve the District of the obligation to pay, in any event, all installments and interest provided in this contract.

(c) Whenever the United States shall have resumed the care, operation and maintenance of any such works pursuant to the provisions of subdivision (b) of this Article, the Secretary, upon written request by the District accompanied by assurances satisfactory to him, may, upon sixty (60) days' written notice to the District, return the care, operation and maintenance of any such works to the District.

(d) The right of the United States to control the care, operation and maintenance of any such works, pursuant to the provisions of this Article, shall continue during the repayment period of this contract.

Keeping Works and Appurtenant Structures in Repair

11. During the repayment period of this contract, except in case of emergency, no substantial change in any of the works to be constructed by the United States and transferred to the District under the provisions hereof shall be made by the District without first having had and obtained the written consent of the Secretary, and the Secretary's opinion as to whether any change in any such works is or is not substantial shall be conclusive and binding upon the parties hereto. The District shall promptly make any and all repairs to, and replacements of, all works transferred to it under the terms and conditions hereof which, in the opinion of the Secretary, are deemed necessary for the proper operation and mainte-

nance of such works. In case of neglect or failure of the District to make such repairs, the United States may, at the option of the Secretary, after reasonable notice to the District, cause such repairs to be made and charge the actual cost thereof, plus fifteen per centum (15%) to cover overhead and general expense, to the District. On or before October 1 of each calendar year the United States shall give written notice to the District of the amount expended by the United States for repairs under this Article during the twelve-month period ending on September 1 immediately preceding. Such cost, plus overhead and general expense as stated above, shall be repaid by the District on March 1 immediately succeeding.

Agreement by District to Pay for Work Performed by the United States

12. (a) The District agrees to pay the United States the actual cost, not exceeding Thirteen Million Five Hundred Thousand Dollars ($13,500,000), incurred by the United States on account of work herein agreed to be performed by the United States. In addition, the District hereby agrees to repay to the United States all expenditures incurred on account of any and all damages due to the existence, operation and maintenance of the works herein agreed to be constructed by the United States, the incurrence of which increases expenditures by the United States beyond the sum of Thirteen Million Five Hundred Thousand Dollars ($13,500,000). The total of all such costs and expenditures described in Article 9 and in this subdivision 12 (a) shall constitute, is hereby designated and is hereinafter referred to as "the general repayment obligation of the District".

irrigation block shall be that amount which bears the same ratio to the general repayment obligation of the District that the irrigable acreage in such irrigation block bears to the total irrigable acreage of the District, all as determined by the Secretary, whose determination thereof shall be conclusive and binding upon the parties hereto. If necessary, the obligation as to each block may be determined originally on the basis of estimates as to (i) the net irrigable acreage in the District as a whole, (ii) the net irrigable acreage in each block and (iii) the ultimate amount of the general repayment obligation of the District, and the obligation so determined shall be controlling until the obligation is finally determined on the basis of the actual net irrigable acreage in the District as a whole, the actual net irrigable acreage in each block and the actual amount of the general repayment obligation of the District. If the total obligation for any block, as finally determined, is different from the original allocation therefor, the remaining unaccrued balance of the original obligation shall be adjusted by the amount of the difference. The Secretary promptly shall notify the District in writing of the amounts when originally and when finally determined as the obligation as to each irrigation block.

(c) The general repayment obligation of the District as determined pursuant to Articles 9 and 12 (a) hereof shall remain a general obligation of the District as a whole notwithstanding the allocation thereof among two or more irrigation blocks in the District, and default of the lands in any block as to the obligation allocated to that block shall not relieve the District as a whole of liability as to that portion of its general repayment obligation. All lands now or hereafter in the District are, as a whole,

obligated to pay to the United States the full amounts herein agreed upon, regardless of the default or failure of any tract or of any landowner in the payment of the taxes levied by the District against such tract or landowner, and the District shall, when necessary, levy and collect appropriate taxes to make up for the default or delinquency of any such tract of land or of any such landowner in the payment of taxes, so that in any event and regardless of any defaults or delinquencies in the payment of any tax or taxes, the amounts becoming due the United States hereunder shall be paid to the United States by the District when due. Nothing in this subdivision of this Article, however, shall be construed as in any manner altering the time or rate of payment of the obligation allocated to each irrigation block.

Development Periods and Furnishing of Water During Such Periods

14. For each irrigation block which shall be designated as provided in Article 13 hereof there is hereby fixed a development period of eight (8) years from and including the date on which water from the works described in Article 9 (a) (i) hereof is available for all irrigable lands in the block, as determined by the Secretary. During the development period for each irrigation block the District shall deliver water to the lands within such block on a water rental or toll-charge basis. The charge shall be on the basis of an amount per acre foot of water per annum. The charges for each irrigation block shall be fixed by the District with the object of collecting throughout the development period amounts at least sufficient (i) to defray the annual costs of operation and maintenance chargeable to that block, and (ii) to provide for repairs

(b) Should Congress or other Governmental financing authorities fail to make necessary appropriations or allocations of money to complete the work herein provided for, then the Secretary may, at such reasonable time as he may consider advisable after Congress and such other Governmental financing authorities shall have failed for two (2) consecutive years to make the necessary appropriations or allocations which shall have been annually requested by the Secretary, give the District notice of the termination of work by the United States, and furnish the District with a statement of the amount actually expended by the United States thereon, exclusive of the amounts theretofore covered by notices given under Article 15 of this contract, and the amount set out in such statement shall be paid by the District in the manner set out in Article 15 of this contract.

Establishment of Irrigation Blocks; Allocation of Construction Costs Obligations Thereto

13. (a) The Secretary shall, from time to time, during the construction of works hereunder, designate the areas of land within the District to which irrigation water will be available through the works described in Article 9 (a) (i) hereof at substantially the same time. Each such area shall be known as an irrigation block. No irrigation block so designated shall include land in more than one improvement district of the District. The designation of each irrigation block shall be made before water becomes available therefor through the works described in Article 9 (a) (i) hereof.

(b) The Secretary shall make an allocation of the District's general repayment obligation to the lands in the respective irrigation blocks. The obligation of each

to and depreciation of works constructed by the United States and operated by the District hereunder, in accordance with the provisions of Article 10. The amount of the charge and the terms and conditions with respect to it for each year during the development period shall be determined and announced by the District on or before January 1 of each year. The District shall collect the necessary tolls and charges from the water users within each irrigation block during a development period in advance of the delivery of water.

Terms of Payment

15. The amount herein agreed to be paid to the United States on account of each irrigation block shall be due and payable by the District in not more than forty (40) annual instalments commencing with the calendar year, next succeeding the year of termination of the development period for such irrigation block. The first five (5) of such annual instalments shall each be one per centum (1%) of the cost allocated to each irrigation block, all as conclusively determined by the Secretary; the next ten (10) of such instalments shall each be two per centum (2%) of said cost, and the remainder of such annual instalments shall each be three per centum (3%) of said cost. The sums payable annually as set forth above shall be divided into two (2) equal semiannual instalments payable on March 1st and September 1st of each year; provided, however, that if the development period with respect to any irrigation block shall terminate subsequent to August 1st of any year, the first semiannual instalment of charges hereunder shall be due and payable on March 1st of the second succeeding year following termination of the development period for such irrigation block.

Accumulation and Use of Reserve Fund

16. (a) Beginning in the calendar year in which the first instalment of the general repayment obligation of the District shall have become due and payable under the provisions of Article 15 hereof and continuing thereafter until such time as all sums of money becoming due hereunder shall have been paid to the United States, the District shall accumulate and maintain, in the manner hereinafter provided, a reserve fund which shall be available for the purposes and in the circumstances hereinafter mentioned:

(b) Said reserve fund shall be accumulated by the District in yearly increments of Twenty Thousand Dollars ($20,000) until the reserve fund thus accumulated shall total One Hundred Thousand Dollars ($100,000), which total sum shall be maintained at all times, provided, however, that the District shall not be required to add to said reserve fund an amount in excess of Twenty Thousand Dollars ($20,000) in any one year.

(c) Except in case of emergency expenditures shall be made from said reserve fund only with the advance approval of the Secretary and only for the purposes of meeting major, unforeseen costs of operation and maintenance, repair, betterment and replacement of works constructed hereunder by the United States or the District.

(d) Said reserve fund shall be deposited and maintained, apart from other District funds, in a depository meeting the requirements of the laws of California and upon conditions concerning its withdrawal which are satisfactory to the Secretary.

(e) During such time or times as the operation and maintenance of works constructed hereunder shall have

been resumed by the United States in accordance with the provisions of Article 10 (b) hereof, said reserve fund shall be available for use by the United States for the same purposes as said reserve fund was theretofore available for use by the District.

Refusal of Water in Case of Default

17. The United States reserves the right to refuse to deliver water to the District under the provisions of the aforesaid contract of October 15, 1934, in the event of default for a period of more than twelve (12) months in any payment due the United States under this contract, or, in the discretion of the Secretary, to reduce deliveries in such proportion as the amount in default by the District bears to the total amount due. No water shall be delivered to or for any tract of land in the District during any time that the owners or holders thereof are delinquent in the payment of any taxes heretofore or hereafter levied by the District or any toll or other charges which the District may be authorized to make. It is understood, however, that the provisions of this Article shall not relieve the District of its obligation under the aforesaid contract of October 15, 1934, to divert, transport and deliver water for the use and benefit of other agencies with which the United States may contract for the diversion, transportation and delivery of water through or by the works constructed or to be constructed under the terms of the said contract of October 15, 1934.

Title to Remain in the United States.

18. Title to the works to be constructed by the United States under the terms hereof shall be and remain in the United States, notwithstanding transfer of the care, op-

eration and maintenance thereof to the District; provided, however, that the Secretary may, in his discretion, when repayment to the United States of all moneys advanced shall have been made, transfer the title to said works to the District.

Rules and Regulations

19. There is reserved to the Secretary the right to prescribe and enforce rules and regulations not inconsistent with this contract governing the care, operation and maintenance of the works to be constructed hereunder. Such rules and regulations may be modified, revised and/or extended from time to time, after notice to the District and opportunity for it to present its views, as may be deemed proper, necessary, or desirable by the Secretary to carry out the true intent and meaning of the law and of this contract, or amendments thereof. The District hereby agrees that in the care, operation and maintenance of the works to be constructed hereunder, all such rules and regulations will be fully adhered to.

Inspection by the United States

20. The Secretary may cause to be made from time to time a reasonable inspection of the works constructed by the United States to the end that he may ascertain whether the terms of this contract are being satisfactorily executed by the District. The actual expense of such inspection in any calendar year shall be paid by the District to the United States on March 1st of each year immediately following the year in which such inspection is made, and upon statement to be furnished by the Secretary. The Secretary or his representative shall at all times have the right of ingress to and egress from all works of the

District for the purpose of inspection, repairs and maintenance of works of the United States, and for all other purposes, within the terms of this contract.

Access to Books and Records

21. The officials or designated representatives of the District shall have full and free access to the books and records of the United States, as far as they relate to the matters covered by this contract, with the right at any time during office hours to make copies of or from the same; and the Secretary shall have the same right in respect of the books and records of the District.

Development and Compilation of Data and Keeping of Books, Records and Reports

22. (a) The District shall with reasonable accuracy maintain a modern set of books of account, in form acceptable to the Secretary, showing all the financial transactions of the District. On or before the first day of February of each year the District shall make full and complete written reports to the United States, on forms to be approved and furnished by the Secretary, covering all water delivered to the lands of the District through the works to be constructed hereunder, the disposition of such water, and the nature, extent and total estimated value of each kind of crop produced on the total acreage of the District during the twelve-month period ending December 31 next preceding. The District shall furnish such financial reports and statements of its operations and condition as may be required from time to time by the Secretary. The records and data from which any reports or statements are made shall be accessible to the United States on demand by the Secretary and the District

shall cooperate to the fullest extent in facilitating any investigation by the United States of the facts shown in such records or data.

(b) The District hereby declares its intention to cooperate with the United States in the development, preparation and compilation of such data, reports and statements as in the judgment of the Secretary are necessary or desirable, which operations may, at the request of the District, be performed by the United States at the expense of the District. The aggregate cost to the District during any calendar year of operations under this subdivision shall not exceed the sum of Fifteen Thousand Dollars ($15,000), unless a greater sum is authorized by the District. The actual cost to the United States of such operations in any calendar year shall be paid by the District to the United States on March 1st of each year immediately following the year in which such operations are conducted, and upon statement to be furnished by the Secretary.

Disputes or Disagreements

23. Disputes or disagreements as to the interpretation or performance of the provisions of this contract shall be determined either by arbitration or court proceedings, the Secretary being authorized to act for the United States in such arbitration proceedings. Whenever a controversy arises out of this contract and the parties hereto agree to submit the matter to arbitration, the District shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within thirty (30) days after their first meeting, such arbitrators

not so elected, shall be named by the Senior Judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of a majority, with all five (5) arbitrators participating, shall be a valid and binding award of the arbitrators.

Interest on Charges Due from District

24. No interest shall be charged on any charges due from the District hereunder, except that on all such charges or any part thereof which remain unpaid by the District to the United States after the same become due, an interest charge of one-half of one percentum (½%) of the amount unpaid shall be added thereto, and thereafter an additional interest charge of one-half of one percentum (½%) of the principal sum unpaid shall be added on the first day of each succeeding calendar month until the amount due, including such interest, is paid in full.

Contract Subject to Colorado River Compact

25. This contract is made upon the express condition and with the express covenant that all rights hereunder shall be subject to and controlled by the Colorado River Compact, approved by Section 13 (a) of the Boulder Canyon Project Act, and the parties hereto shall observe and be subject to and controlled by said Colorado River Compact in the construction, management and operation of all works provided for herein. It is understood and agreed by the parties hereto that this contract does not deal with the subject of availability of water.

Application of Reclamation Law

26. Except as provided in the Boulder Canyon Project Act, the Reclamation Law shall govern the construction,

operation and maintenance of the works to be constructed hereunder.

Lands Not to Receive Water Until Owners Thereof Execute Certain Contracts

27. No water shall be delivered to any excess lands, as defined in Article 29 hereof, unless the owners thereof shall have executed valid recordable contracts in form satisfactory to the Secretary, agreeing to the provisions of this contract between the United States and the District; agreeing to the appraisal provided for in Article 28 hereof and that such appraisal shall be made on the basis of the actual bona fide value of such lands at the date of the appraisal without reference to the construction of the Coachella Main Canal or the distribution system and system of protective works herein agreed to be constructed, all as hereinafter provided; and agreeing to the sale of such lands under terms and conditions satisfactory to the Secretary and at prices not to exceed those fixed by the Secretary, as hereinafter provided. No sale of any such lands shall carry the right to receive water delivered under said contract of October 15, 1934, unless and until the purchase price involved in such sale is approved by the Secretary and upon proof of fraudulent representation as to the true consideration involved in such sales the Secretary may instruct the District by written notice to refuse to deliver any water to the land involved in such fraudulent sales and the District thereafter shall not deliver said water to such lands.

Valuation and Sale of Excess Lands

28. (a) The value of the irrigable lands within the District as defined in Article 29, held in private ownership of large landowners as defined in said Article, for the

purposes of this contract, shall be determined, subject to the approval thereof by the Secretary, by three appraisers. One of said appraisers shall be designated by the Secretary and one shall be designated by the District and the two appraisers so appointed shall name the third. If the appraisers so designated by the Secretary and the District are unable to agree upon the appointment of the third, they shall so advise the Secretary and the District and the designation of the third appraiser shall then be made by the Secretary.

(b) The following principles shall govern the appraisal:

(i) No value shall be given such lands on account of the existing or prospective possibility of securing water from the Coachella Main Canal or the distribution system and system of protective works herein agreed to be constructed.

(ii) The value of improvements on the land at the time of said appraisal shall be included therein, but shall also be set forth separately in such appraisal.

(c) The cost of the appraisal shall be paid by the United States.

(d) Any improvements made or placed on the appraised land after the appraisal hereinabove provided for prior to sale of the land by a large landowner may be appraised in like manner, and the same shall be subject to approval by the Secretary or his authorized representative.

(e) Future sales of such irrigable lands of large landowners shall not carry the right to receive water delivered under said contract of October 15, 1934, for such

land and the District agrees to refuse to deliver water to land so sold until, in addition to compliance with the other provisions hereof:

(i) A verified statement showing the sale price upon any such sale shall have been filed with the District; and

(ii) There shall have been complied with by the landowner such reasonable rules and regulations as may now or hereafter be promulgated by the Secretary for the better administration and enforcement of the Reclamation Law and of the provisions hereof, which may include, among others, the requirement that prior to delivery of water to any District lands acquired from a large landowner, the owner thereof shall furnish the District with an affidavit describing in detail the affiant's purchase of such lands made prior thereto.

(f) The District agrees, by all reasonable means, including the quarterly examination of county records or procurement of necessary title abstract service and otherwise, to ascertain the occurrence and conditions of all sales of such irrigable lands of large landowners and to inform the United States concerning the same.

(g) A true copy of this contract and of each appraisal made pursuant thereto shall be maintained on file in the office of the District and like copies in the office of the Regional Director, United States Bureau of Reclamation, Boulder City, Nevada, and shall be made available for examination during the usual office hours by all persons who may be interested therein.

Excess Lands

29. (a) As used herein the terms "excess land" means that part of the irrigable land within the District in excess of 160 acres held in the beneficial ownership of any single person; or in excess of 320 acres held in the beneficial ownership of husband and wife jointly, as tenants in common, or by the entirety, or as community property; the term "large landowner" means an owner of excess lands; the term "nonexcess land" means all irrigable land within the District which is not excess land as defined herein; and the term "irrigable lands within the District" means those lands now or hereafter within the District and lying within the Coachella Service Area, which, in the conclusive determination of the Secretary, are irrigable and susceptible of service from the distribution system herein agreed to be constructed.

(b) Each large landowner as a further condition precedent to the right to receive water delivered under said contract of October 15, 1934, for any of his excess lands shall:

(i) Before the initial delivery date or before the expiration of six months from the announcement thereof, whichever occurs first, execute a valid recordable contract in form satisfactory to the Secretary, agreeing to the provisions herein contained and agreeing to dispose of his excess lands in accordance therewith to persons who can take title thereto as nonexcess land as herein provided and at a price not to exceed the approved, appraised value of such excess land and within a period of ten years after the date of the execution of said recordable contract and agreeing further that if said land is not so disposed

of within said period of ten years the Secretary shall have the power to dispose of said land subject to the same conditions on behalf of such large landowner subject to conditions all as herein provided; and the District agrees that it will refuse to deliver water to any large landowner other than for his nonexcess lands until such owner meets the conditions precedent herein stated.

(ii) Within thirty days after the date of notice from the United States requesting such large landowner to designate his irrigable lands within the District which he desires to designate as nonexcess lands, file in the office of the District, in duplicate, one copy thereof to be furnished by the District to the United States, his written designation and description of lands so selected to be nonexcess lands and upon failure to do so the District shall make such designation and mail a notice thereof to such large landowner, and in the event the District fails to act within such period of time as the Secretary considers reasonable, such designation will be made by the Secretary who will mail a notice thereof to the District and the large landowner. The large landowner shall become bound by any such action on the part of the District or the Secretary and the District will deliver water only to the land so designated to be nonexcess land.

Public Lands Subject to the Act of August 11, 1916, as Amended

30. Those public lands of the United States and entered lands for which no final certificates have been issued, located within the District, and described on the

list which is hereto attached, marked Exhibit "B", and by this reference made a part hereof, are hereby designated as subject to all the provisions of the act entitled "An Act to promote the reclamation of arid lands", approved August 11, 1916 (39 Stat. 506), as amended by the Act of May 15, 1922 (42 Stat. 541); provided, that unentered public lands, while in that status, shall not be assessed by the District for any purpose.

Contract to Be Authorized by Election and Confirmed by Court

31. The execution of this contract by the District shall be authorized by the qualified electors of the District at an election held for that purpose. Thereafter, without delay, the District shall prosecute to judgment proceedings in court for a judicial confirmation of the authorization and validity of this contract. The United States shall not be in any manner bound under the terms and conditions of this contract unless and until a confirmatory final judgment in such proceedings shall have been rendered, including final decision, or pending appellate action if ground for appeal be laid. The District shall, without delay and at its own cost and expense, furnish the United States for its files copies of all proceedings relating to the election upon this contract and the confirmation proceedings in connection therewith, which said copies shall be properly certified by the clerk of the court in which confirmatory judgment is obtained.

Contract Contingent Upon Appropriations

32. This contract is subject to appropriations or allocations being made by Congress or other Governmental financing authorities from year to year of moneys suf-

ficient to do the work provided for herein, and to there being sufficient moneys available in the Colorado River Dam Fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents, attorneys, or employees, by reason of sufficient moneys not being so appropriated or on account of there not being sufficient moneys in the Colorado River Dam Fund to permit of said allotments.

Notices

33. (a) Any notice, demand or request required or authorized by this contract to be given or made to or upon the United States shall be delivered, or mailed postage prepaid, to the Regional Director, United States Bureau of Reclamation, Boulder City, Nevada, except where, by the terms hereof, the same is to be given or made to or upon the Secretary, in which event it shall be delivered, or mailed postage prepaid, to the Secretary of the Interior, at Washington, D. C.

(b) Any notice, demand or request required or authorized by this contract to be given or made to or upon the District shall be delivered, or mailed postage prepaid, to the Chief Engineer and General Manager of the Coachella Valley County Water District, Coachella, Riverside County, California.

(c) The designation of any person specified in this Article, or the address of any such person, may be changed at any time by notice given in the same manner as provided in this Article for other notices.

Rights Reserved Under Section 3737, Revised Statutes

34. All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Remedies Under Contract Not Exclusive

35. Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States or the District of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have. The waiver of a breach of any of the provisions of this contract shall not be deemed to be a waiver of any provision hereof, or of any other or subsequent breach of any provision hereof.

Interest in Contract Not Transferable

36. No interest in this contract is transferable by the District to any other party, and any such attempted transfer shall cause this contract to become subject to annulment at the option of the United States.

Contract of October 15, 1934, to Remain in Full Force and Effect, Except as Herein Modified

37. Except as modified by the provisions hereof, the aforesaid contract between the United States and the District of date October 15, 1934 (11r-781), shall be and remain in full force and effect.

Priority of Claims of the United States

38. Claims of the United States arising out of this contract shall have priority over all others, secured or unsecured.

Officials Not to Benefit

39. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

Discrimination Against Employees or Applicants for Employment Prohibited

40. The District shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and shall require an identical provision to be included in all subcontracts; Provided, however, That this clause does not refer to, extend to or cover the business or activities of the District which are not related to or involved in the performance of this contract.

Representative of Secretary

41. Where this contract provides for action by the Secretary, such action may be taken subject to review by the Secretary, for and on behalf of the Secretary by his representative duly authorized by him.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA,
By WILLIAM E. WARNE,
Assistant Secretary of the Interior.

COACHELLA VALLEY COUNTY WATER DISTRICT,

By E. KEITH FARRAR
President.

Attest:

BARBARA K. SCHMIDT
Secretary.

(The following exhibits, annexed to the foregoing contract, are omitted here because of the limitations of space:

Exhixit A: "Bureau of Reclamation map entitled Boulder Canyon Project All-American Canal System-California, Coachella Valley County Water District Distribution System and Protective Works."

Exhibit B: "Unentered Public Lands and Entered Lands for which no final certificates have been issued.")

APPENDIX NO. 18

OPERATION CONTRACT: UNITED STATES and IMPERIAL IRRIGATION DISTRICT

March 4, 1952

Contract Amendatory of and Supplemental to All-American Canal Contract Dated December 1, 1932

1. **This Amendatory and Supplemental Contract,** made this 4th day of March, 1952, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, all of which Acts are commonly known and referred to as the Reclamation Law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat. 1057), designated the Boulder Canyon Project Act, and the Treaty between the United States of America and the United Mexican States signed at Washington, February 3, 1944, the Protocol thereto signed at Washington November 14, 1944, and the reservations included in the consent to ratification by the Senate of the United States, April 18, 1945, providing for the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico all as duly ratified and proclaimed (59 Stat. 1219), hereinafter called the "Mexican Water Treaty" between **The United States of America,** hereinafter referred to as the "United States," acting for this purpose by Oscar L. Chapman, Secretary of the Interior, hereinafter styled the "Secretary," and **Imperial Irrigation District,** an irrigation district created, organized and existing under and by virtue of the laws of the State of California, with its principal place of business at El

Centro, Imperial County, California, hereinafter referred to as the "District,"

Witnesseth:

Explanatory Recitals

2. **Whereas,** the United States and the District have heretofore entered into a contract dated December 1, 1932, entitled "Contract for Construction of Diversion Dam, Main Canal and Appurtenant Structures and for Delivery of Water," hereinafter called "Contract of December 1, 1932," providing, among other things, for the construction of Imperial Dam and the All-American Canal, for the operation and maintenance thereof, for repayment of the cost thereof by the District, for the utilization of power possibilities upon said Canal and for the delivery of water by the United States; and

3. **Whereas,** among other works, Imperial Dam and that Section of the All-American Canal from Imperial Dam to and including Pilot Knob Check and Wasteway have been constructed by the United States; and

4. **Whereas,** the Mexican Water Treaty makes provision for a portion of the waters allocated to Mexico under said Treaty to be diverted at Imperial Dam and delivered to Mexico by means of the All-American Canal and the Pilot Knob Wasteway; and

5. **Whereas,** under the provisions of the Mexican Water Treaty, direct ownership, control and jurisdiction over Imperial Dam and that portion of the All-American Canal from Imperial Dam to and including Pilot Knob Check and Wasteway is required to be retained in the United States within the limits and to the extent necessary to effectuate the provisions of the said Treaty, and

such quirement of the said Treaty will be satisfied if the care, operation and maintenance by the District of the works specified in subsection (b) of Article 10 hereof are under the supervision and control of the Secretary to insure that all diversions are made in accord with Master Schedules and fulfillment at all times of all necessary coordinated actions affecting all diversions; and

6. **Whereas,** the Mexican Water Treaty provides that Mexico shall pay to the United States a proportion of the costs actually incurred in the construction of Imperial Dam and of the All-American Canal from Imperial Dam to and including Pilot Knob Check and Wasteway, as determined by the two Governments, and annually, a part of the total costs of maintenance and operation of such facilities in proportion to the amount of water delivered annually through such facilities for use in each of the two countries; and

7. **Whereas,** under the said Treaty it is provided that in the event that revenues from the sale of hydroelectric power which may be generated at Pilot Knob become available for the amortization of part or all of the costs of Imperial Dam and the Imperial Dam-Pilot Knob Section of the All-American Canal, Mexico's part of the cost of said facilities is to be reduced or repaid in the same proportion as the balance of the total costs is reduced or repaid; and

8. **Whereas,** the United States and the District desire to amend and supplement their contract of December 1, 1932, so as to make said contract conform with the obligations of the United States under the Mexican Water Treaty, and to preserve to the United States and to the District the benefits of said contract to the maxi-

mum extent compatible with the provisions of said Treaty;

9. **Now, Therefore,** in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to wit:

Operation and Maintenance of Certain Works by United States and by District

10. (a) The Secretary, in accordance with the contract of December 1, 1932, has determined and does hereby determine and notify the District, and the District agrees, that construction of all works provided for therein has been completed in accordance with the said contract of December 1, 1932. The Secretary hereby grants to the District permission to install, at its own cost and expense, such structures in the common section of the Main All-American Canal to Coachella Valley at such times, at such points and with such capacities as the District may determine; provided, however, that such permission shall not be construed as modifying the position either of the District or the Secretary with regard to the opening to entry of public lands on the Imperial East Mesa.

(b) At the expiration of sixty (60) days from and after the date of this contract, or at such earlier date as may be otherwise mutually agreed upon, the District, without further or other notice, shall assume the care, operation and maintenance of all of the works not already covered by notice of completion heretofore given by the Secretary to the District, except Laguna Dam, the California Sluiceway and the overflow section of Imperial Dam, and the headworks and other works constructed at the east end of said dam for delivery of water to water

users in Arizona and the desilting works below said headworks, and except those works hereinafter specified in subsection (c) of this article, and thereafter the District shall care for, operate and maintain said works, in accordance with the provisions of this contract and the contract of December 1, 1932.

(c) Anything in the contract of December 1, 1932, to the contrary notwithstanding, the care, operation and maintenance of all turnout structures now or hereafter constructed in the Imperial Dam-Pilot Knob Section of the All-American Canal for service to the Siphon Drop Power Plant, the Yuma Project Main Canal and the lands of the Yuma Project in California shall be retained permanently by the United States, and said turnout structures shall be operated and maintained by the Bureau of Reclamation, without expense to the District, under such rules and regulations as may be promulgated by the Secretary, not inconsistent with this contract or the contract of December 1, 1932; provided, however, that the Secretary shall have the right, with the consent of the District, to contract with any organization of Yuma Project water users for the care, operation and maintenance of said turnouts.

(d) Anything in the contract of December 1, 1932, to the contrary notwithstanding, the care, operation and maintenance of Laguna Dam, the California Sluiceway at Imperial Dam, the overflow section of Imperial Dam and the headworks and other works constructed at the east end of said dam for delivery of water to water users in Arizona and the desilting works below said headworks, shall be retained permanently by the United States; provided, however, that the Secretary shall have the right to,

and the District agrees that he may, contract with any organization of Arizona water users for which capacity is provided in Imperial Dam, for the care, operation and maintenance of the headworks and other works constructed at the east end of said dam for the delivery of water to water users in Arizona, and the desilting works below said headworks.

(e) Immediately after the date of this contract, the District shall advance to the United States the District's share of the estimated cost of operation and maintenance of Imperial Dam and of Laguna Dam by the United States for the balance of the year ending on the last day of the month of February next following; provided, however, that if this contract becomes effective prior to March 1, 1952, the District shall in such event advance to the United States the estimated operation and maintenance costs as aforesaid for the period ending on the last day of the month of February, 1953. Such share to be advanced by the District shall be in the proportion that the capacity provided for the District in Imperial Dam, including capacity utilized in the All-American Canal for water delivery under the Mexican Water Treaty, bears to the total capacity thereof. Thereafter, the District shall on March 1 of each year advance to the United States the District's share of the estimated cost of operation and maintenance of Imperial Dam and of Laguna Dam by the United States for the following twelve months, upon estimates furnished therefor on or before September 1 next preceding; provided, however, that said cost of operation and maintenance of Imperial Dam and Laguna Dam shall not include any part of the cost of the care, operation or maintenance of the headworks and other works constructed at the east end of Imperial Dam

or the desilting works below said headworks. Differences between actual costs and estimates shall be determined by the Secretary and shall be adjusted in next succeeding estimates; provided, however, that if at any time in the Secretary's judgment it shall appear that the amount advanced by the District pursuant to any estimate for a particular period will prove to be insufficient to pay the District's share of the actual costs of operation and maintenance for that period, then the District shall, within forty-five (45) days after receipt of notice advance to the United States such additional amount as may be specified in said notice.

Control of Colorado River

11. The United States, acting through the Secretary, shall continue to have control of the Colorado River for the purpose of carrying out the functions delegated to him by the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), the Colorado River Front Work and Levee System Act of June 28, 1946 (58 Stat. 150, 157), and the Mexican Water Treaty.

Scheduling of Water Diversions at Imperial Dam

12. The Secretary, through the Bureau of Reclamation, shall make appropriate arrangements to obtain a statement of water requirements from all individuals and agencies holding contracts with the United States for the delivery of Colorado River water by means of Imperial Dam, including in addition to such contracting agencies the Bureau of Reclamation and the United States Section of the International Boundary and Water Commission, United States and Mexico, not later than Wednesday of each week, of their respective daily water requirements

within their legal entitlements, which statement shall also include the additional water, if any, to be utilized by the Bureau of Reclamation for power generation at Siphon Drop and by the District for power generation at Pilot Knob, for the week commencing Monday next following. Requirements for all water to be scheduled for use through the All-American Canal except those for power use at Siphon Drop, the Yuma Project and to meet Treaty requirements shall be provided by the District. Immediately upon receipt of such statement of water requirements, the Bureau of Reclamation shall prepare a Master Schedule of all water diversions to be made at Imperial Dam for delivery and/or use in the United States, including the amounts of water to be utilized for power generation at Siphon Drop and Pilot Knob, and to Mexico through the All-American Canal under the Mexican Water Treaty during the week commencing Monday next following. In addition, such schedule shall also indicate the quantity of water, if any, reasonably required to be used in the United States during such week for river regulation below Imperial Dam (giving due consideration to the effect of such use on the availability of water for diversions at Imperial Dam and, in so far as practicable, such use shall be scheduled, after consultation with the District, at times and in amounts as will result in the least possible dislocation of such diversions at Imperial Dam) and the quantity of water, if any, to be delivered to Mexico under the Mexican Water Treaty by means other than through the All-American Canal and/or from water used for generation of power at Siphon Drop and Pilot Knob. A copy of such Master Schedule shall be furnished to the District not later than 48 hours before such schedule is to take effect. All diversions and re-

leases of water at Imperial Dam shall be in substantial accordance with such Master Schedule. Adjustments in the Schedule may be made at the request of any participant upon approval thereof by the Secretary. When thus approved such adjustments shall be made as soon as reasonably practicable. In the event of emergency occasioned by flood or for any other compelling reason of an emergent nature, the Bureau of Reclamation shall advise the District and others diverting water at Imperial Dam of any changes which may thus become necessary in scheduled diversions and deliveries, and such changes shall be promptly made and observed by the District, but the District shall not be required to increase diversions to the All-American Canal as a result thereof Nothing herein nor operations hereunder shall be construed as intended to alter, affect, or interpret the extent of legal entitlement and/or use of any participant in said Master Schedule. The preparation and approval of a Master Schedule by the Bureau of Reclamation or the Secretary shall not constitute an administrative determination, finding or recommendation as to the water to which any agency is entitled.

Establishment of Imperial Dam Advisory Board

13. The Secretary shall promptly make arrangements for the organization of an Advisory Board, hereby designated "Imperial Dam Advisory Board," which shall be composed of one representative from each of the agencies contracting for and entitled to deliveries of water to be diverted at Imperial Dam, the Bureau of Reclamation, and the United States Section of the International Boundary and Water Commission. Meetings of the Board shall be held at such times and at such places as may be agreed

upon by a majority of its members. The purpose of the Board shall be to provide a means of consultation and cooperation in matters of mutual concern relating to the operation and maintenance of Imperial Dam and Laguna Dam, the diversion of waters to the All-American Canal and the Gila Project Main Canal, and in such other matters of mutual concern as may be agreed upon by its members. Determinations of the Board shall be advisory only.

Delivery of Treaty Water Through All-American Canal

14. (a) The District, in full accordance with the requirements set forth in this contract, shall divert at Imperial Dam, transport through the All-American Canal and deliver to the United States Section of the International Boundary and Water Commission at the junction of Pilot Knob Wasteway and the Alamo Canal the water made available by the United States at Imperial Dam which Mexico is entitled to receive under the provisions of Article 11 (c) of the Mexican Water Treaty, as shown by the Master Schedule to be furnished the District by the Bureau of Reclamation. Such deliveries shall be made under and in accordance with rules and regulations as may from time to time be promulgated by the Secretary not inconsistent with this contract or said Treaty.

(b) The works required or used and the services furnished by the District in making the water deliveries referred to in subsection (a) of this article shall be provided and furnished without in any manner modifying the obligations of the District for the repayment to the United States of the construction cost of such works under the provisions of the contract of December 1, 1932.

(c) It shall be in the sole discretion of the United States to determine the share Mexico is to pay under the provisions of Article 14 (b) of said Treaty, of the cost of operation and maintenance of All-American Canal System, and the portion, if any, of such costs which shall be paid by the United States, and how much, if any, of such amounts shall be received by the District by way of credits or otherwise.

(d) Nothing in this article shall be construed as constituting or affecting interpretation of Article 14 of said Treaty.

Assumption of Operation and Maintenance of Works by United States

15. The District's officers and/or employees concerned with the diversion of water at Imperial Dam, and those concerned with diversion at Pilot Knob Check of water destined for Mexico under the Mexican Water Treaty, shall, in the event that said officers and/or employees fail to operate said works so that diversions are made in substantial accordance with the Master Schedule prepared pursuant to Article 12 of this contract, be subject to the orders of the Bureau of Reclamation as the representative of the Secretary in the over-all coordination of river operations. If at any time, or during such times as, in the opinion of the Secretary such officers and/or employees of the District shall fail to comply with the applicable rules and regulations promulgated under this contract or the contract of December 1, 1932, with the instructions issued by the Bureau of Reclamation because of emergencies occasioned by flood or for any other compelling reason of an emergent nature, or substantially with the requirements of the Master Schedule,

in a manner satisfactory to the Secretary, then the Secretary shall, with or without notice to the District, forthwith remove District employees engaged in any of such operations and replace them with Government employees, and shall assume operation and maintenance of the headworks at Imperial Dam and the works at Pilot Knob affecting the diversion of water destined for Mexico under the Mexican Water Treaty either or both, and retain such operation and maintenance during such period or periods of time as he deems necessary: provided, however, that unless the action of such District officers and/or employees complained of creates an emergency or is such as to materially interfere with the United States carrying out its obligations under the Mexican Water Treaty, the Secretary will first, before removing such District employees and assuming operation and maintenance of said works, give notice to the District of such action complained of and a reasonable opportunity, not to exceed three (3) days after receipt of such notice by the District, for the District to correct the situation." In such event the District shall, within ten (10) days after written notice by the Secretary, advance to the United States its pro-rata share of the estimated cost of such care, operation and maintenance by the United States, plus fifteen percentum (15%) to cover overhead and general expense, for the period specified in said notice: provided, however, that said period shall not exceed sixty (60) days. Additional amounts plus a like percentage thereof shall, within ten (10) days after subsequent notices, be advanced as specified in such subsequent notices; provided, however, that each said subsequent notice shall be for a period not exceeding sixty (60) days. Any surplus of funds advanced by the District remaining unexpended and

unobligated at such time as the operation and maintenance of such works is resumed by the District shall be refunded to the District. The rights reserved to the United States to assume operation and maintenance of works under the provisions of this article shall be deemed to be in addition to any rights which the United States has under the contract of December 1, 1932, and such assumption of operation and maintenance by the Secretary shall not relieve the District from its obligations hereunder or under said contract of December 1, 1932. Operation and maintenance by the District shall be restored when the Secretary finds that the situation which occasioned the assumption of operation and maintenance by the United States has been satisfactorily corrected.

Development of Power Possibilities at Pilot Knob

16. (a) As of the date of this contract, the District shall be deemed to have the permission of the United States to proceed with the development of the power possibilities upon the All-American Canal at or near Pilot Knob, as provided by the Boulder Canyon Project Act and the contract of December 1, 1932, subject only to approval by the Secretary of the District's plans for constructing and connecting diversion works in the bank of the All-American Canal for the purposes of said power development. Upon application therefor, the Secretary will grant to the District such easements over the public and acquired lands of the United States as may be, in his opinion, reasonably necessary for the construction, operation and maintenance by the District of a power plant and appurtenant facilities at the aforesaid location. Without affecting the rights which the District has to the development of the aforesaid power possibilities, and the use

of water therefor, under the provisions of the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), and the contract of December 1, 1932, the District may utilize for purposes of Pilot Knob power generation the water to be delivered to Mexico through the All-American Canal in pursuance of the Mexican Water Treaty and other water available in the river at Imperial Dam which is not required for use in the United States which latter use shall include use for river regulation below Imperial Dam as provided in Article 12 hereof; provided, however, that in no event and under no circumstances shall the use of water for power purposes at the Pilot Knob Power Plant interfere with the delivery of water for use in Mexico under the terms of the Mexican Water Treaty, and it shall be the duty and the obligation of the District to make provision for, and to so operate its power plant at Pilot Knob and the Pilot Knob Wasteway as to provide a continuous flow of water at the junction of Pilot Knob Wasteway and the Alamo Canal at times and in amounts not less than those stated in the Master Schedule of water diversions and deliveries to be furnished by the Bureau of Reclamation as provided for herein.

(b) If and when the United States shall have acquired title to the Rockwood Gate and that part of the Alamo Canal situate in the United States, Rockwood Gate shall be used by the United States as a wasteway from the All-American Canal to the Colorado River, in connection with the operation by any agency of the All-American Canal and the Pilot Knob Wasteway, or other wasteway from the said All-American Canal, or the tailrace from any power plant which may be constructed at or near the Pilot Knob Wasteway, subject to the paramount use of

said Rockwood Gate to deliver water to Mexico by means of the All-American Canal as required by Articles 11 (c) and 12 (c) of the Mexican Water Treaty; and said use of said Rockway Gate as a wasteway to the Colorado River will be permitted by any agency of the United States, or by the District, which may be operating said All-American Canal and/or Pilot Knob Wasteway, or other wasteway or tailrace as above mentioned, subject to the paramount use of said Rockwood Gate to deliver water to Mexico, as aforesaid. In consideration of the aforesaid use of Rockwood Gate by the District, the District does hereby release the United States, its agencies, officers and employees, from any and all claims for damages caused by any loss of power head arising out of such use of the Rockwood Gate for the purpose of making delivery of Treaty waters to Mexico, as aforesaid.

(c) The development of power by the District at the Pilot Knob Power Plant is made upon the express condition and with the express covenant that the District shall observe and be subject to and controlled by the Colorado River Compact, the Boulder Canyon Project Act, the California Limitation Act, and the Mexican Water Treaty, in the construction and management and operation of said power plant and the storage, diversion, delivery and use of water for the generation of power at said plant.

(d) At such time or during such times as the Secretary assumes the care, operation and maintenance of the headworks at Imperial Dam or the Imperial Dam-Pilot Knob Section of the All-American Canal, either under the provisions hereof or the provisions of the contract of December 1, 1932, the flow of water through Pilot Knob Power Plant shall be as directed by the Secretary, and

the employees of the District operating said plant shall observe and carry out all such directions. In the event said employees fail or refuse to so regulate the flow through said power plant, the Secretary shall have the right, with or without notice to the District, to close the intake gates to the penstocks of said power plant and to keep them closed for such period or periods as he deems necessary.

Effect on Contract of December 1, 1932

17. Except as expressly amended or supplemented hereby, the aforesaid contract between the United States and the District, dated December 1, 1932, shall be and remain in full force and effect.

Priority of Claims of the United States

18. Claims of the United States arising out of this contract shall have priority over all others, secured and unsecured.

Remedies under Contract not Exclusive

19. Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States or the District of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have. The waiver of a breach of any of the provisions of this contract shall not be deemed to be a waiver of any other provision hereof or of a subsequent breach of such provision.

Interest in Contract not Transferable

20. No interest in this contract is transferable by the District to any other party, and any such attempted transfer shall cause this contract to become subject to annulment at the option of the United States.

Rights Reserved under Section 3737 Revised Statutes

21. All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Force Majeure

22. Neither party to this contract shall be held accountable for failure to perform occasioned by Act of God or of the public enemy or other unforeseen or unavoidable cause.

Officials Not to Benefit

23. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

Secretary's Representative

24. When used herein, unless otherwise distinctly expressed, or manifestly incompatible with the intent hereof, the term "Secretary" shall mean the Secretary or his duly authorized Federal representative.

Discrimination Against Employees or Applicants for Employment Prohibited

25. The District shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and shall require an identical provision to be included in all subcontracts; provided, however, that this clause does not refer to, extend to or cover the business or activities of the District which are not related to or involved in the performance of this contract.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA,
By OSCAR L. CHAPMAN
Secretary of the Interior

IMPERIAL IRRIGATION DISTRICT,
By EVAN T. HEWES
President

[Seal]

Attest:

.....
Secretary

APPENDIX NO. 19

WATER DELIVERY CONTRACT: UNITED STATES AND METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

April 24, 1930

(1) This Contract, made this 24 day of April, nineteen hundred thirty, pursuant to the Act of Congress approved June 17, 1902, (32 Stat., 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the reclamation law, and particularly pursuant to the Act of Congress approved December 21, 1928, (45 Stat., 1057), designated the Boulder Canyon Project Act, between The United States of America, hereinafter referred to as the United States, acting for this purpose by Ray Lyman Wilbur, Secretary of the Interior, hereinafter styled the Secretary, and The Metropolitan Water District of Southern California, a public corporation, hereinafter styled the District, organized and existing under the laws of the State of California;

Witnesseth:

Explanatory Recitals

(2) Whereas, for the purpose of controlling the floods, improving navigation and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters for reclamation of public lands and other beneficial uses exclusively within the United States, the Secretary, subject to the terms of the Colorado River Compact, is authorized to construct, operate and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon, ade-

quate to create a storage reservoir of a capacity of not less than twenty million acre-feet of water; and

(3) Whereas, after full consideration of the advantages of both the Black Canyon and Boulder Canyon dam sites, the Secretary has determined upon Black Canyon as the site of the aforesaid dam, hereinafter styled the Boulder Canyon Dam, creating thereby a reservoir to be hereinafter styled the Boulder Canyon Reservoir and has determined that the revenues provided for by this contract, together with other contracts in accordance with the provisions of the Boulder Canyon Project Act, are adequate in his judgment to insure payment of all expenses of operation and maintenance of the Boulder Canyon Dam and appurtenant works incurred by the United States, and the repayment within fifty (50) years from the date of completion of said works of all amounts advanced to the Colorado River Dam Fund under Subdivision (b) of Section 2 of the Boulder Canyon Project Act, together with interest thereon made reimbursable under said Act; and

(4) Whereas, the District is desirous of entering into a contract for the delivery to it of water from Boulder Canyon Reservoir;

(5) Now, Therefore, in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to wit:

Delivery of Water by United States.

(6) The United States shall deliver to the District each year from the Boulder Canyon Reservoir at a point in the Colorado River immediately below Boulder Canyon Dam, or as provided in Article 10 hereof, up to but not to exceed one million fifty thousand (1,050,000) acre

feet of water, which shall be delivered continuously as far as reasonable diligence will permit; provided, that such amount is without prejudice to any additional rights which the District may have or acquire in or to the waters of the Colorado River, or to the power of the parties to contract hereafter with reference thereto. The United States shall not be obligated to deliver water to the District when for any reason such delivery would interfere with the use of Boulder Canyon dam, and reservoir for river regulation, improvement of navigation, flood control, and/or satisfaction of present perfected rights, in or to the waters of the Colorado River, or its tributaries, in pursuance of Article VIII of the Colorado River Compact, and this contract is made upon the express condition and with the express covenant that the right of the District to waters of the Colorado River, or its tributaries, is subject to and controlled by the Colorado River Compact. The United States reserves the right to discontinue or temporarily reduce the amount of water to be delivered for the purpose of investigation, inspection, maintenance, repairs, replacement or installation of equipment and/or machinery at Boulder Canyon Dam, but so far as feasible the United States will give the District reasonable notice in advance of such temporary discontinuance or reduction. The United States, its officers, agents and employees shall not be liable for damages when, for any reason whatsoever, suspensions or reductions in delivery of water occur. This contract is for permanent service, but is made subject to the express covenant and condition that in the event water for the District is not taken or diverted by the District hereunder for District purposes within a period of ten (10) years from and after completion of Boulder Canyon Dam as an-

nounced by the Secretary; it may in such event, upon the written order of the Secretary, and after hearing become null and void and of no effect . . .

Receipt of Water by District

(7) The District shall receive the water to be delivered to it by the United States under the terms hereof at the point of delivery above stated and shall at its own expense convey such water to its proposed aqueduct, and shall perform all acts required by law or custom in order to maintain its control over such water and to secure and maintain its lawful and proper diversion from the Colorado River.

Measurement of Water

(8) The water to be delivered hereunder shall be measured at the intake of the District's proposed aqueduct by such measuring and controlling devices or such automatic gauges or both, as shall be satisfactory to the Secretary. Said measuring and controlling devices, or automatic gauges, shall be furnished, installed and maintained by and at the expense of the District, but they shall be and remain at all times under the complete control of the United States, whose authorized representatives may at all times have access to them over the lands and rights-of-way of the District.

Record of Water Diverted

(9) The District shall make full and complete written monthly reports as directed by the Secretary, on forms to be supplied by the United States, of all water diverted from the Colorado River. Such reports shall be made by the fifth day of the month immediately succeeding the month in which the water is diverted, and the records

and data from which such reports are made shall be accessible to the United States on demand of the Secretary.

Charge for Delivery of Water

(10) A charge of twenty-five cents ($0.25) per acre-foot shall be made for water delivered to the District hereunder during the Boulder Dam cost repayment period. It is understood by the District that it may divert water above Boulder Canyon Dam, but that such diversion of water above the dam will reduce the amount of power otherwise available at said dam, and may reduce the amount which would have been utilized, except at times when the reservoir is spilling, and an additional charge, determined as stated below, will be made on account of any such reduction in energy which would otherwise have been utilized in case water is diverted above the dam. The energy which could have been generated by the water diverted above the dam and which would have been utilized at times when the reservoir is not spilling will be calculated from the effective head, the quantity of water diverted and the overall efficiency of the power plant, as determined by the Secrtary, whose determination shall be conclusive and binding upon the parties hereto. The additional charge per month for diversion above the dam will be the product of such amount of energy and the rate per kilowatt hour for firm energy at Boulder Canyon Dam in effect at the time of such diversion. Nevertheless if such diversion during any year (June 1st to May 31st, inclusive) has not reduced the amount of firm energy during such year, for which the United States has contracted, the diversion, to the extent that no reduction in firm energy has been occasioned, shall be computed at the rate for secondary energy then in force and credit given on the ensuing year's power bills of the District for

the difference between the amount charged therefor and the amount so determined. The Secretary's determination of such credit shall be conclusive. The reservoir shall be considered as spilling whenever water is being discharged in excess of the amount used for the generation of power, whether such waste occurs over the spillway or otherwise. Energy equivalent to water delivered above the dam, determined as above, for which the firm energy rate is charged, shall be included in the total firm energy available at the dam, defined as four billion, three hundred thirty million (4,330,000,000) kilowatt hours per year (June 1st to May 31st, inclusive), upon completion of the dam, as announced by the Secretary, and decreasing uniformly thereafter by eight million seven hundred sixty thousand (8,760,000) kilowatt hours per year, and also included in the District's allotment of firm energy. Nevertheless if it be determined by the Secretary that the rate of decrease above stated is not in accord with actual conditions, the Secretary reserves the right to fix a lesser rate for any year (June 1st to May 31st, inclusive) in advance:

Monthly Payments and Penalties

(11) The District shall pay monthly for all water delivered to it hereunder, or diverted by it from the Colorado River, in accordance with the rate herein in Article ten (10) established. Payments shall be due on the first of the second month immediately succeeding the month in which water is delivered and/or diverted. If such charges are not paid when due, a penalty of one per centum (1%) of the amount unpaid shall be added thereto, and thereafter an additional penalty of one per centum (1%) of the amount unpaid shall be added on the first day of each calendar month during such delinquency.

Refusal of Water in Case of Default.

(12) The United States reserves the right to refuse to deliver water to the District in the event of default for a period of more than twelve (12) months in any payment due or to become due the United States under this contract.

Inspection by the United States

(13) The Secretary or his representatives, shall at all times have the right of ingress to and egress from all works of the District for the purposes of inspection, repairs and maintenance of works of the United States, and for all other proper purposes. The Secretary or his representatives shall also have free access at all reasonable times to the books and records of the District relating to the diversion and distribution of water delivered to it hereunder with the right at any time during office hours to make copies of or from the same.

Disputes or Disagreements.

(14) Disputes or disagreements as to the interpretation or performance of the provisions of this contract shall be determined either by arbitration or court proceedings, the Secretary of the Interior being authorized to act for the United States in such proceedings. Whenever a controversy arises out of this contract, and the parties hereto agree to submit the matter to arbitration the District shall name one arbitrator and the Secretary shall name one arbitrator and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within five (5) days after the first meeting, such arbitrators not so elected, shall be named by the Senior

Judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

Rules and Regulations

(15) There is reserved to the Secretary the right to prescribe and enforce rules and regulations governing the delivery and diversion of water hereunder. Such rules and regulations may be modified, revised and/or extended from time to time after notice to the District and opportunity for it to be heard, as may be deemed proper, necessary, or desirable by the Secretary to carry out the true intent and meaning of the law and of this contract, or amendments hereof, or to protect the interests of the United States. The District hereby agrees that in the operation and maintenance of its diversion works and aqueduct, all such rules and regulations will be fully adhered to.

Agreement Subject to Colorado River Compact

(16) This contract is made upon the express condition and with the express understanding that all rights hereunder shall be subject to and controlled by the Colorado River Compact, being the compact or agreement signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes", which Compact was approved in Section 13(a) of the Boulder Canyon Project Act.

Priority of Claims of the United States

(17) Claims of the United States arising out of this contract shall have priority over all others, secured or unsecured.

Contingent Upon Appropriations

(18) This contract is subject to appropriations being made by Congress from year to year of moneys sufficient to do the work provided for herein, and to there being sufficient moneys available in the Colorado River Dam Fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents, or employees, by reason of sufficient moneys not being so appropriated nor on account of there not being sufficient moneys in the Colorado River Dam Fund to permit of said allotments. This agreement is also subject to the condition that if Congress fails to appropriate moneys for the commencement of construction work within five (5) years from and after execution hereof, or if for any other reason construction of Boulder Canyon Dam is not commenced within said time and thereafter prosecuted to completion with reasonable diligence, then and in such event either party hereto may terminate its obligations hereunder upon one (1) year's written notice to the other party hereto.

Rights Reserved Under Section 3737 Revised Statutes

(19) All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Remedies Under Contract Not Exclusive

(20) Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have.

Interest in Contract Not Transferable

(21) No interest in this agreement is transferable, and no sublease shall be made, by the District without the written consent of the Secretary, and any such attempted transfer or sublease shall cause this contract to become subject to annulment, at the option of the United States.

Member of Congress Clause

(22) No Member of or Delegate to Congress or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written.

(Executed in quadruplicate original)

THE UNITED STATES OF AMERICA,
By RAY LYMAN WILBUR
Secretary of the Interior

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA,
By W. P. WHITSETT
Chairman of the Board of Directors
(Seal)

Attest:
NORTHCUTT ELY

Approved as to form:
W. B. MATHEWS
General Counsel

Attest:
G. H. FINLEY
Secretary of the Board of Directors

APPENDIX NO. 20

POWER CONTRACT TO PUMP WATER: UNITED STATES AND METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

April 26, 1930

(1) **This Contract,** made this 26th day of April, nineteen hundred thirty, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the reclamation law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat., 1057), designated the Boulder Canyon Project Act, between **The United States of America,** hereinafter referred to as the United States, acting for this purpose by Ray Lyman Wilbur, Secretary of the Interior, hereinafter styled the Secretary, and **The Metropolitan Water District of Southern California,** a public corporation, organized and existing under and by virtue of the Laws of the State of California, hereinafter styled the District:

Witnesseth:

Explanatory Recitals

(2) **Whereas,** for the purpose of controlling the floods, improving navigation and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters for reclamation of public lands and other beneficial uses exclusively within the United States, and for the generation of electrical energy, the Secretary, subject to the terms of the Colorado River Compact, is authorized to construct, operate and maintain

a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon, adequate to create a storage reservoir of a capacity of not less than twenty million acre feet of water; also to construct, equip, operate and maintain at or near said dam, or cause to be constructed, a complete plant and incidental structures suitable for the fullest economic development of electrical energy from the water discharged from said reservoir; and

(3) **Whereas,** after full consideration of the advantages of both the Black Canyon and Boulder Canyon dam sites, the Secretary has determined upon Black Canyon as the site of the aforesaid dam, hereinafter styled the Boulder Canyon Dam, and has determined that the revenues provided for by this contract, together with other contracts in accordance with the provisions of the Boulder Canyon Project Act, are adequate in his judgment to insure payment of all expenses of operation and maintenance of the Boulder Canyon Dam and appurtenant works incurred by the United States, and the repayment within fifty (50) years from the date of completion of said works of all amounts advanced to the Colorado River Dam Fund under Subdivision (b) of Section 2 of the Boulder Canyon Project Act, together with interest thereon made reimbursable under said Act; and

(4) **Whereas,** the United States proposes to enter into an agreement with the City of Los Angeles and Southern California Edison Company Ltd., severally (hereinafter referred to as the lessees) for the lease, and the operation and maintenance of a Government-built power plant to be constructed at Boulder Canyon Dam, together with the right to generate electrical energy a copy of which said

proposed lease is attached hereto marked Exhibit "A," and by this reference made a part hereof, wherein the Secretary has reserved the authority to, and in consideration of the execution thereof is authorized by each of the aforesaid lessees, severally, to contract with the other allottees named in the allocation set forth therein for the furnishing of energy to such allottees at transmission voltage in accordance with the allocation to each allottee, and the Secretary is therein granted by each lessee, severally, the power in accordance with the provisions thereof to enforce as against each lessee the rights to be acquired by such other allottees by contracts to be entered into with the United States; and

(5) **Whereas,** the District is desirous of entering into a contract with the United States providing for the delivery to the District each year from the Boulder Canyon Reservoir up to but not to exceed one million fifty thousand (1,050,000) acre-feet of water, and, in connection therewith an incident thereto, the District is desirous also of entering into a contract for the purchase of electrical energy to be generated at the power plant to be leased, as aforesaid, to the City of Los Angeles (hereinafter referred to as the City) and Southern California Edison Company Ltd., (hereinafter referred to as the Company) to aid in the transportation of such water supply;

(6) **Now, Therefore,** in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to-wit:

Allocation of Electrical Energy

(7) The United States will cause to be delivered to the District under and in pursuance of and subject to the provisions of the aforesaid proposed lease, attached here-

to as Exhibit "A", for a period of fifty (50) years from the date at which energy is ready for delivery to the City, as announced by the Secretary, in accordance with the following allocation, to-wit:

Of Firm Energy

A. To the State of Nevada, for use in Nevada, not exceeding eighteen per centum (18%) of said total firm energy.

B. To the State of Arizona, for use in Arizona, not exceeding eighteen per centum (18%) of said total firm energy.

Should either of the States not take its full eighteen per centum (18%) allocation within a period of twenty (20) years hereof, the other may then contract for the energy not so taken up to four per centum (4%) of the total firm energy, provided that the combined amount used by the two states shall not, at any time, exceed thirty-six per centum (36%) of such total firm energy.

C. To the Metropolitan Water District of Southern California so much energy as may be needed and used for pumping Colorado River water into and in its aqueduct for the use of such District within the following limits:

(1) Not exceeding thirty-six per centum (36%) of said total firm energy; plus

(2) All secondary energy developed at the Boulder Dam power plant as provided in Article Fourteen (14) hereof; plus

(3) So much of the firm energy allocated to the States, the City and the Company as may

not be in use by them. Energy allocated to the States, but not in use by them, shall be released to the District by the two lessees equally (unless they agree upon a different ratio) as follows:

(a) If the District makes a firm contract with the Secretary for the balance of the lease period for part or all of such unused States energy (subject to the first right of the States thereto) such contract shall be made effective upon two years' written notice to the Secretary, and compensation to the lessees, respectively, for main transmission line property rendered idle;

(b) If the District does not so make a firm contract for such energy, then energy allocated to the States but not in use by them, shall be released to the District upon not less than fifteen months' written notice to the Secretary and at such compensation as the District and such lessees, respectively, may agree upon, to cover cost and overhead of replacing energy which otherwise would have been received at the Pacific Coast end of the main transmission lines by the lessees, respectively. Such cost shall include interest on and depreciation and operation and maintenance of the plant capacity while required for the generation of such substitute energy; and also appropriate allowance for interest on and maintenance and depreciation of plant capacity rendered idle because of cessation of generation of such substitute energy until such time

as such plant capacity would otherwise have been installed by the lessees, respectively, for their own requirements. If the District and the respective lessees fail to agree on such compensation, such energy shall nevertheless be released to the District, and the disagreement shall be determined in accordance with Article twenty-two (22) (a) hereof. Such determination shall include allowance for items of cost and overhead as specified in this paragraph. Pending such determination, energy so released shall be paid for by the District at the rate for firm energy but the determination of compensation under Article twenty-two (22) (a) hereof shall not be controlled by such rate.

During any year beginning June first, the District shall not use any secondary energy or any unused State energy, until it has first used subsequent to June first, next preceding, an amount of firm energy equivalent to one-twelfth of the amount of firm energy it is obligated to take and/or pay for annually multiplied by the number of months elapsed since June first next preceding.

(4) If, due to temporary deficiency in secondary energy regularly used by the District, substitute energy is requested by the District in excess of the energy made available under the foregoing sub-paragraph (3) (b) the City and/or the Company may release so much energy as may be practicable on the same terms as provided in sub-section (3) (b) preceding.

D. To the municipalities of Anaheim, Beverly Hills, Burbank, Colton, Fullerton, Glendale, Newport Beach, Pasadena, Riverside, San Bernardino and Santa Ana, (referred to herein as "the municipalities"), six per centum (6%) in all, to be allocated between them as they may agree; but if no agreement is submitted to the Secretary on or before April 15, 1931, the Secretary shall determine the allocation of each.

E. To the City of Los Angeles, Thirteen per centum (13%).

F. To Southern California Edison Company Ltd., the Southern Sierras Power Company, the San Diego Consolidated Gas and Electric Company and the Los Angeles Gas and Electric Corporation, referred to herein as the companies, nine per centum (9%) in all, division whereof between the companies shall be made according to mutual agreement among them, if possible. If no such agreement is submitted to the Secretary on or before April 15, 1931, the Secretary shall determine the allocation of each.

The foregoing allocations are subject to the following conditions:

(i) So much of the energy allocated to the States (thirty-six per centum (36%) of the firm energy) and not in use by them, or failing their use, by the District for the above purposes, shall be taken and paid for one-half by the City and one-half by the Company.

(ii) All of the energy allocated to the municipalities may be contracted for in compliance with regulations of the Secretary, by any one or more of them, as they may agree, on or before April 15, 1931. So much of the energy allocated to the municipalities as is not so contracted for, or if contracted for, not used by them directly or under contract for municipal purposes and/or distribution to their inhabitants, shall be taken and paid for by the City.

(iii) So much of the energy allocated to the Southern Sierras Power Company, the San Diego Consolidated Gas and Electric Company, and the Los Angeles Gas and Electric Corporation as is not firmly contracted for by them, severally, in compliance with regulations of the Secretary on or before April 15, 1931, shall be taken and paid for by the Company.

(iv) If any allottee is permitted by the United States to divert water from the reservoir, at a time when the reservoir is not spilling, in consequence of which the amount of energy which would have been utilized is diminished, such diminution shall be debited to the allocation of firm energy herein made to such allottee; and charge for the energy equivalent of such diversion shall be made, and the amount of energy which the allottee shall otherwise be obligated to take and pay for hereunder shall be correspondingly reduced.

The reservoir shall be considered as spilling whenever water is being discharged in excess of the amount used for the generation of power, whether such waste occurs over the spillway or otherwise.

(v) Each of the States of Arizona and Nevada may, from time to time within the period of the aforesaid lease, contract for energy for use within such State in any amount until the total allocated respectively to each is in use as provided above; and may terminate such contract, or contracts, without prejudice to the right to again contract for such energy. All such contracts shall be executed with the Secretary. A contract requiring one thousand (1000) horsepower (of maximum demand) or less may become effective or be terminated on six months written notice of requirement or termination given the Director by the State; provided, that the notice given shall be two years if in the twelve months preceding said notice of demand the total increment to such state has exceeded five thousand (5000) horsepower of maximum demand or if in the twelve months preceding said notice of termination the decrement to such state has exceeded five thousand (5000) horsepower of maximum demand. In all cases the Director shall immediately transmit such notice to each lessee. Whenever the amount in use is in excess of five thousand (5000) horsepower of maximum demand, the lessees respectively shall be compensated for

property rendered idle by use of such excess in such amount as the Secretary shall determine to be equitable. Firm energy not contracted for by the States shall be available for use by the District as herein elsewhere provided, and if not in use by the States and/or the District, shall be taken and paid for equally by the two lessees. No right which may be available to a State under section five 5 (c) of the Boulder Canyon Project Act to execute a firm contract for electrical energy for use within the State shall be impaired by any provision of this contract.

Of Secondary Energy.

The District shall have the right to purchase and use all secondary energy as provided in Article nine (9) and Article fourteen (14) hereof for the purposes stated in the first paragraph of subdivision (C) of this Article. The City and the Company shall each have the right to purchase and use one-half of all secondary energy not used by the District. Any such energy not used by one lessee shall be available, for the time being, to the other. If secondary energy is not taken by the District, the City, and/or the Company then and in such event, the United States reserves the right to take, use and dispose of such energy, from time to time, as it sees fit, giving credit therefor as provided in Article twelve (12) of Exhibit "A" hereof.

Of Firm Energy Allocated to but not Used by the District.

In the event the District shall fail for any reason to use all or any of the firm energy herein allotted to it for the only purpose for which said firm energy is allotted to it, that is, for pumping water into and in its aqueduct; then no disposition shall be made of such firm energy by the Secretary without first giving to a successor to the District which may undertake to build or maintain a Colorado River Aqueduct the opportunity to take said firm energy for the same purpose and under the same terms as those to which the District was obligated.

In the event no such successor takes said firm energy as provided above, then no disposition of such firm energy shall be made by the Secretary without first giving to each lessee the opportunity to contract on equal terms and conditions, to be prescribed by the Secretary, for one-half of such energy, together with such portion of the remainder as the other lessee shall not elect to take.

Of Firm Energy not Disposed of Under the Foregoing Allocations.

The United States reserves the right, in case the dam which it erects provides a maximum water surface elevation in excess of one thousand two hundred twenty-two (1222) feet above sea level (U. S. Geological Survey Datum), and thereby increases the quantity of firm energy above the quan-

tity of four billion two hundred forty million (4,240,000,000) kilowatt hours allocated above, to dispose of such increase, but not to exceed ninety million (90,000,000) kilowatt hours per year (June 1st to May 31st, inclusive) to any municipality or municipalities by firm contract executed with the Secretary on or before April 15, 1931. Such disposition shall be without prejudice to any provision of this lease or of the allocation above referred to. So much of such additional energy as is not so contracted for shall be taken and paid for by the City. Generation of such additional energy shall in any event be effected by the City.

Installation of Machinery

(8) The District shall have opportunity to be heard by the Secretary or his representatives upon the design, capacity and cost of machinery to be provided and installed as stated in Article eight (8) of Exhibit "A" hereof before contracts therefor are let.

Firm and Secondary Energy Defined

(9) The amount of firm energy for the first year of operation, (June 1 to May 31, inclusive) following the date of the completion of the dam as announced by the Secretary shall be defined as being four billion two hundred forty million (4,240,000,000) kilowatt hours at transmission voltage. For every subsequent year the amount defined as firm energy shall be decreased by eight million seven hundred sixty thousand (8,760,000) kilowatt hours from that of the previous year.

Nevertheless, if it be determined by the Secretary that the rate of decrease of kilowatt hours per year as above stated, is not in accord with actual conditions, the Secretary reserves the right to fix a lesser rate for any year (June 1st to May 31st, inclusive) in advance.

If the dam erected by the United States provides a maximum water surface elevation in excess of 1222 feet above sea level (U. S. Geological Survey Datum), the United States reserves the right to dispose of additional firm energy thereby made available, not to exceed ninety million (90,000,000) kilowatt hours per year, subject to pro rata of the eight million seven hundred sixty thousand (8,760,000) kilowatt hours annual diminution above provided for.

The term "secondary energy" wherever used herein shall mean all electrical energy generated in one year (June 1st to May 31st, inclusive) in excess of the amount of firm energy as hereinabove defined, available in such year.

If, by reason of international obligations arising through treaty or otherwise subsequent to the effective date of this contract, or by reason of interference with the program of construction and/or operation of the dam as provided for and contemplated by this contract, or by reason of other contingencies not now foreseen, the amount of firm energy available through the release of water from the Boulder Canyon reservoir shall in fact be less than the amount of firm energy as above defined, then in any such event the obligation of the District to take and pay for its allocation of firm energy shall be reduced in an amount corresponding to such change. If for any reason the United States shall be wholly unable

to fulfill its obligations hereunder in respect of the delivery of water, then the District or either of them, may terminate this contract.

The right of the District and or lessees to take and pay for energy at the rate for secondary energy after discharge of such party's obligation to the United States to pay for energy at the rate for firm energy, shall not be impaired by reason of the fact that another allottee has not discharged its obligation to pay for energy at the rate for firm energy.

Generating Agencies

(10) In accordance with designation heretofore made by the Secretary, generation of energy allocated to the District shall be effected by the City. Nevertheless this provision is subject to the following conditions:

(i) Should it prove of material economic advantage to the District to have a portion of its energy generated as off-peak energy, the City, after generating energy for the District to the full extent of the generating capacity which has been installed at the request of the District with allowance for the contemplated margin of reserve capacity, shall also generate such additional energy as may be needed by the District, and as can be generated off-peak with other generating capacity leased to and being operated by the City at such times as such use does not conflict with the needs of the City and other allottees for whom the City is generating energy. The District will pay for the off-peak use of such other generating capacity together with an allowance for a fair proportion of the operation and maintenance expenses at rates to be agreed upon between the District and the City and approved by the Secretary and if they are unable to agree

then at a rate to be determined by the Secretary. Should the amount of energy which can be obtained by the District, from the generating capacity which has been installed at the request of the District and from other capacity leased to and being operated by the City, be insufficient to satisfy the requirements of the District, then the District may arrange with Southern California Edison Company Ltd. for generation of such off-peak energy as may be needed by the District at such times and not obtainable from the City to such an extent as such generation does not conflict with the needs of the Company and other allottees for whom the Company is generating energy. Charge shall be made against the District for such service at the rate to be agreed upon between the District and the Company and approved by the Secretary and if they are unable to agree then at a rate to be determined in accordance with Article twenty-two (a) hereof.

(ii) Disputes and disagreements between any allottee and the lessee generating energy for it, with respect to such generation, and/or the cost thereof, shall be determined by the Secretary unless otherwise specifically provided in this contract.

(iii) Except for off-peak power furnished the District which shall be as provided in Paragraph (i) of this Article, all generation shall be effected at cost as determined in accordance with Article 12 of Exhibit "A" hereof.

Delivery of Electrical Energy

(11) (a) Energy shall be ready for delivery to the City and to the municipalities including those contracting under the last paragraph of Article seven (7) hereof

when the Secretary announces that one billion, two hundred fifty million (1,250,000,000) kilowatt hours of energy per year is ready for delivery.

(b) Energy shall be ready for delivery to the District when the Secretary announces that two billion (2,000,000,000) kilowatt hours of energy per year is available, which date, however, shall not be sooner than one (1) year after energy is ready for delivery to the City, provided, however, that the time when energy is ready for delivery to the District may be advanced subject to the approval of the Secretary, should the District so request, and that in such case the City shall be compensated by the District for interest and depreciation on and maintenance and operation of its main transmission line in case the total energy available to the City is reduced below one billion two hundred fifty million (1,250,000,000) kilowatt hours per annum, in the proportion that such kilowatt hours available to the City is less than one billion two hundred fifty million (1,250,000,000).

(c) Energy shall be ready for delivery to the Company when the Secretary announces that water capable of generating four billion two hundred forty million (4,240,000,000) kilowatt hours of energy per year is available, which date, however, shall not be sooner than three (3) years after commencement of delivery of energy to the City and which shall not be until the water surface in Boulder Canyon Reservoir on August first immediately preceding has reached an elevation of eleven hundred fifty (1150) feet above sea level (U. S. Geological Survey datum).

(d) Upon written notification from the Secretary that generation equipment is ready for operation by it and

water is available for generating energy therefrom, each lessee will be required to assume the operation and maintenance of its respective portion of the power plant, and thereafter the District will look to such lessee, severally, and not to the United States for compensation for injury and or damages of any kind which may in any manner arise out of the operation and maintenance of the portion of such plant leased to it.

Charges to be Paid the United States

(12) In consideration of this contract, the District agrees:

(1) To pay the United States for the use of falling water for generation of energy for the District, (except as otherwise provided in Article 15 hereof), as follows:

(a) One and sixty-three hundredths mills ($0.00163) per kilowatt hour, (delivered at transmission voltage) for firm energy;

(b) One-Half mill ($0.0005) per kilowatt hour, (delivered at transmission voltage) for secondary energy;

(2) To pay the United States, for credit to the lessees, on account of use of the leased equipment as herein elsewhere provided; and

(3) To pay the United States, for credit to the lessees, on account of maintenance of said equipment, including repairs to and replacements of machinery, as herein elsewhere provided.

At the end of fifteen (15) years from the date of execution of, this contract and every ten (10) years there-

after, the above rates of payment for firm and secondary energy shall be readjusted upon demand of any party hereto, either upward or downward as to price, as the Secretary may find to be justified by competitive conditions at distributing points or competitive centers.

The rate for falling water for generation of firm energy which shall be uniform for both lessees provided for by any such readjustment shall be arrived at by deducting from the price of electrical energy justified by competitive conditions at distributing points or competitive centers,—(1) all fixed and operating costs of transmission to such points,—(2) all fixed and operating costs of such portion of the power plant machinery as is to be operated and maintained by the several lessees, including the cost of repairs and replacements, together with such readjustment as to replacements as is provided for in paragraph 3 in this Article; it being understood that such readjusted rates shall under no circumstances exceed the value of said energy, based upon competitive conditions at distributing points or competitive centers.

"In arriving at the respective rates for "firm energy" and "secondary energy" as fixed herein, recognition has been given to the fact that "secondary energy" cannot be relied upon as being at all times available, but is subject to diminition or temporary exhaustion; whereas "firm energy" is the amount of energy agreed upon as being available continuously as required during each year of the contract period. In the readjustment of the rate for "secondary energy", account shall be taken of the foregoing factors."

The charges agreed to be paid by the District to the United States, for credit to the City as generating agency,

in this Article, shall be such proportion of the cost incurred by such generating agency as it and the District may agree.

The term "cost", as used with reference to generating energy, shall include a proper proportionate allowance for amortization for the cost of machinery and equipment as provided in Paragraph a of Article 9 of Exhibit A hereof, a proper proportionate part of any annuity set up in accordance with regulations of the Secretary provided for in Subdivision 3 of Article sixteen (16) of Exhibit "A" hereof, for the purpose of meeting the obligation of the City to make replacements; and a proper proportionate part of the actual outlay of the City for operating such machinery and equipment and keeping the same in repair, including reasonable overhead charges. The extent of the allowance for the several items in the event of disagreement between the City and District, and the system of accounting therefor, shall be prescribed by the Secretary under uniform regulations as required by Section 6 of the Boulder Canyon Project Act.

Monthly Payments and Penalties

(13) The District shall pay monthly for energy in accordance with the rates established or provided for herein, and for the generation thereof as provided in Article twelve (12).

When energy taken in any month is not in excess of one-twelfth (1/12) of the minimum annual obligation, bill for such month shall be computed at the rate for firm energy in effect when such energy was taken on the basis of the actual amount of energy used during such month. All energy used during any month in excess of one-twelfth (1/12) of the minimum annual obligation shall be paid

for at the rate for secondary energy in effect when such energy was taken: provided, however, that the secondary rate shall not apply to any energy taken during any month unless and until an amount of energy equivalent to one-twelfth (1/12) of the minimum annual obligation has been taken for all months beginning with the month of June immediately preceding; provided, however, that the bill for the month of May shall not be less than the difference between the minimum annual payment as provided in Article fourteen (14) hereof, and the sum of the amounts charged for firm energy during the preceding eleven months. The United States will submit bills to the District by the fifth of each month immediately following the month during which the energy is generated, and payments shall be due on the first day of the month immediately succeeding. If such charges are not paid when due, a penalty of one per centum (1%) of the amount unpaid shall be added thereto, and thereafter an additional penalty of one per centum (1%) of the amount unpaid shall be added on the first day of each calendar month thereafter during such delinquency.

The monthly charge for generation of such energy to be credited to the generating agency shall be in such amount as may be determined in accordance with Article twelve (12) hereof.

Minimum Annual Payment

(14) The total payments made by the District for firm energy available in any year (June 1st to May 31st, inclusive), whether any energy is taken by it or not, exclusive of its payments for credit to the generating agency, shall be not less than the number of kilowatt hours of firm energy which the District is obligated to take

and/or pay for during said year, multiplied by one and sixty-three hundredths mills ($0.00163), or multiplied by the adjusted rate of payment for firm energy in case the said rate is adjusted as provided in Article twelve (12) hereof. For a fractional year at the beginning or end of the contract period, the minimum annual payment for firm energy shall be proportionately adjusted in the ratio that the number of days water is available for generation of energy in such fractional year bears to three hundred sixty-five (365). Provided, however, that in order to afford a reasonable time for the District to absorb the energy contracted for, the minimum annual payments by it for the first three (3) years after energy is ready for delivery to it, as announced by the Secretary, shall be as follows, in percentages of the ultimate annual obligation to take and/or pay for firm energy:

1st Year	55%
2nd Year	70%
3rd Year	85%
4th Year and all subsequent years	100%

During said absorption period, if the quantity of energy taken in any one year (June 1st to May 31st, inclusive) is in excess of the above percentages of the ultimate obligation during such year to take and/or pay for firm energy, such excess shall be paid for at the rate for secondary energy. Provided, further that the minimum annual payment shall be reduced in case of interruptions or curtailment of delivery of water as provided in Article sixteen (16) hereof.

The total payments made by the District for generation of such energy, to be credited to the generating agency,

shall be determined in accordance with Article twelve (12) hereof.

No Energy to be Delivered Without Payment

(15) Unless the written consent of the Secretary be first obtained, no electrical energy shall be generated for, or delivered to, the District if it shall be in arrears for more than twelve (12) months in the payment of any charge and/or penalty due or to become due the United States hereunder, whether for its own use or for credit to the generating agency.

Interruptions in Delivery of Water

(16) The United States will deliver water continuously to each lessee in the quantity, in the manner, and at the times necessary for the generation of the energy which each of said lessees has the right and/or obligation to generate under this contract in accordance with the load requirements of each of said lessees, and of allottees for which the respective lessees are generating agencies, excepting only that such delivery shall be regulated so as not to interfere with the necessary use of said Boulder Canyon Dam and Reservoir for river regulation, improvement of navigation, flood control, irrigation, or domestic uses, and the satisfaction of present perfected rights in or to the waters of the Colorado River, or its tributaries, in pursuance of Article VIII of the Colorado River Compact, and this contract is made upon the express condition, and with the express covenant, that the rights of the District to the waters of the Colorado River, or its tributaries, are subject to, and controlled by, the Colorado River Compact. The United States reserves the right temporarily to discontinue or reduce the delivery of

water for the generation of energy at any time for the purpose of maintenance, repairs, and or replacements, or installation of equipment, and for investigations and inspections necessary thereto; provided, however, that the United States shall except in case of emergency give to the lessees reasonable notice in advance of such temporary discontinuance or reduction, and that the United States shall make such inspections and perform such maintenance and repair work after consultation with the lessees at such times and in such manner as will cause the least inconvenience to the lessees, and shall prosecute such work with diligence, and, without unnecessary delay, will resume delivery of water so discontinued or reduced. Should the delivery of water be discontinued or reduced below the amount required, severally, for the normal generation of firm energy for the payment of which said District has hereby obligated itself, the total number of hours of such discontinuance or reduction in any year shall be determined by taking the sum of the number of hours during which the delivery of water is totally discontinued, and the product of the number of hours during which the delivery of water is partially reduced and the percentage of said partial reduction below the actual quantity of water required by the lessees, severally, for the normal generation of firm energy. Total or partial reductions in delivery of water which do not reduce the power output below the amount required at the time by such lessee for the normal generation of firm energy, will not be considered in determining the total hours of discontinuance in any year. The minimum annual payments specified in article fourteen (14) hereof shall be reduced by the ratio that the total number of hours of such discontinuance bears to eight thousand seven hundred sixty (8760). In

no event shall any liability accrue against the United States, its officers, agents and/or employees, for any damage, direct or indirect, arising on account of drought, hostile diversion, Act of God, or of the public enemy, or other similar cause; nevertheless interruptions in delivery of water occasioned by such causes shall be governed as hereinabove provided in this article.

Measurement of Energy

(17) The energy received by the District shall be measured at transmission voltage at the point where the District's transmission lines connect to the switching station at Boulder Canyon dam called the point of delivery, or at the option of the Secretary, the energy received by the District shall be measured at the low voltage side of the substations serving the District, in which event suitable correction shall be made in the amounts of energy as measured to cover all losses between the points of measurement and the point of delivery at transmission voltage at Boulder Canyon dam. Suitable meter equipment satisfactory to the Secretary for measuring the energy received by the District shall be provided and maintained by and at the expense of the District. Meters may be tested at any reasonable time upon the request of either the United States or the District, and in all events they shall be tested at least once each year. If the test discloses that the error of any meter exceeds one per centum (1%) such meter shall be adjusted so that the error does not exceed one half of one per centum (½%). Meter equipment shall be tested by means of suitable testing equipment which will be provided by the United States, and which shall be calibrated by the United States Bureau of Standards as often as requested by either the United States or the

District. Meters shall be kept sealed, and the seal shall be broken only in the presence of representatives of both the United States and the District and likewise all tests of meter equipment shall be conducted only when representatives of both the United States and the District are present.

Inspection by the United States

(18) The Secretary or his representatives, shall at all times have the right of ingress to and egress from all works of the District for the purpose of inspection, repairs and maintenance of works of the United States, and for all other proper purposes. The Secretary or his representatives shall also have free access at all reasonable times to the books and records of the District relating to the disposal of electrical energy, with the right at any time during office hours to make copies of or from the same.

Transmission

(19) (a) The City having, in Article twenty five (25) of Exhibit A hereof undertaken that it shall operate and maintain at cost, including allowance for necessary overhead expense, the lines required for transmitting all Boulder Canyon power from the power plant to the pumping plants of the District, allocated to and used by the District for pumping water into and in its aqueduct; provided, that in the event it should prove materially to the advantage of the District, at any time during the 50-year period of this lease, the District may operate and maintain such transmission lines itself; and provided further, that in the event of disagreement or dispute between the District and the City as to such matter, such disagreement shall be determined as provided in Article twenty-two (a)

(22a) hereof; the Secretary will, if by such determination energy allocated to and used by the District is to be transmitted by the District instead of the City, cause delivery of energy at transmission voltage to be made accordingly.

Duration of Contract

(20) This contract shall become effective as soon as the first Act of Congress appropriating funds for commencement of construction of Boulder Canyon Dam has become law, and as to the District shall remain in effect until the expiration of a period of fifty (50) years from the date at which energy is ready for delivery to the City, as determined by the Secretary. The holder of any contract for electrical energy, including the District, not in default thereunder, shall be entitled to a renewal thereof upon such terms and conditions as may be authorized or required under the then existing laws and regulations, unless the property of such holder dependent for its usefulness on a continuation of the contract be purchased or acquired and such contractor be compensated for damages to its property, used and useful in the transmission and distribution of such electrical energy and not taken, resulting from the termination of the supply.

Contract May Be Terminated in Case of Breach

(21) If the District shall be in arrears for more than twelve (12) months in the payment of any charge and/or penalty due or to become due to the United States hereunder, and shall not have obtained an extension of time for payment thereof, or, if such extension be obtained, has not made such payment within the time as extended, then the Secretary reserves the right thereafter, and upon two (2) years' written notice to the District, to terminate

this contract and dispose of the energy herein allocated as he may see fit: provided, he shall first give opportunity to each lessee to contract on equal and uniform terms and conditions, to be prescribed by the Secretary, for one-half of such energy, together with such portion of the remainder as the other lessee shall not elect to take, and provided further, that such disposition shall be subject to the condition that the District shall have the right at any time within ten (10) years from date of the first of the defaults or breaches for which the contract is terminated, to become reinstated hereunder by payment to the United States of all arrearages and penalties, if any, together with any and all loss incurred by the United States by reason of such termination, and compensation to the contractor or contractors for equipment rendered idle by such reinstatement. In case of disagreement or dispute as to any of the items so to be paid the same shall be determined as provided in article 22 hereof. The waiver of a breach of any of the provisions of this contract shall not be deemed to be a waiver of any other provisions hereof, or of a subsequent breach of such provision.

Disputes and Disagreements

(22) (a) Disputes or disagreements arising under this contract between the District and any lessee or other allottee shall be arbitrated by three arbitrators, except where otherwise provided in this contract. The District shall name one arbitrator, and the other disputant shall name one. These two shall name the third. If either disputant has notified the other that arbitration is demanded and that it has named an arbitrator, and if thereafter the

other disputant fails to name an arbitrator for fifteen (15) days, the Secretary, if requested by either disputant, shall name such arbitrator, who shall proceed as though named by the disputant. The two arbitrators so named shall meet within five days after appointment of the second, and name the third. If they fail to do so, the Secretary will, on request by either disputant or arbitrator, name the third. A decision by any two of the three arbitrators shall be binding on the disputants and enforceable by court proceedings or by the Secretary in his discretion. Arbitration as herein provided, or the failure of the arbitrators to render a decision within six months of appointment of the third arbitrator, shall be a condition precedent to suit by either disputant against the other upon the matter in dispute.

(b) Disputes or disagreements between the United States and the District as to the interpretation or performance of the provisions of this contract shall be determined either by arbitration or court proceedings, the Secretary of the Interior being authorized to act for the United States in such proceedings. Whenever a controversy arises out of this contract, and the disputants agree to submit the matter to arbitration, the District shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within five (5) days after their first meeting, such arbitrators, not so elected, shall be named by the Senior Judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

Use of Public and Reserved Lands of the United States

(23) The use is authorized of such public and reserved lands of the United States as may be necessary or convenient for the construction, operation and maintenance of main transmission lines, to transmit electrical energy generated at Boulder Canyon Dam, together with the use of such public and reserved lands of the United States as may be designated by the Secretary, from time to time, for camp sites, residences for employees, warehouses and other uses incident to the operation and maintenance of the power plant and incidental works.

Priority of Claims of the United States

(24) Claims of the United States arising out of this contract shall have priority over all others, secured or unsecured.

Transfer of Interest in Contract

(25) No voluntary transfer of this contract, or of the rights hereunder, shall be made without the written approval of the Secretary; and any successor or assign of the rights of the District, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the Boulder Canyon Project Act and also subject to all the provisions and conditions of this contract to the same extent as though such successor or assign were the original contractor hereunder; provided that, a mortgage or trust deed or judicial sales made thereunder shall not be deemed voluntary transfers within the meaning of this article.

Rules and Regulations

(26) This contract is subject to such rules and regulations conforming to the Boulder Canyon Project Act

as the Secretary may from time to time promulgate; provided, however, that no right of the District hereunder shall be impaired or obligation of the District hereunder shall be extended thereby; and provided further that opportunity for hearing shall be afforded the District by the Secretary prior to promulgation thereof.

Agreement Subject to Colorado River Compact

(27) This contract is made upon the express condition and with the express understanding that all rights hereunder shall be subject to and controlled by the Colorado River Compact, being the compact or agreement signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming respecting the disposition and apportionment of the waters of the Colorado River; and for other purposes," which Compact was approved in Section 13 (a) of the Boulder Canyon Project Act.

Performance Bond

(28) The District shall, upon demand of the Secretary, furnish and keep current for the use and benefit of the United States a performance bond in a penal sum equal to the annual obligation assumed by it hereunder; or, in lieu thereof, deposit security satisfactory to the Secretary conditioned upon the faithful performance of this contract. In case security is deposited, the Secretary may make such disposition of the same as will accomplish the purpose for which submitted.

Contingent upon Appropriations

(29) This contract is subject to appropriations being made by Congress from year to year of moneys sufficient to do the work provided for herein, and to there being sufficient moneys available in the Colorado River Dam Fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents or employees, by reason of sufficient moneys not being so appropriated or on account of there not being sufficient moneys in the Colorado River Dam Fund to permit of said allotments. This agreement is also subject to the condition that if Congress fails to appropriate moneys for the commencement of construction work within five (5) years from and after execution hereof, or if for any other reason construction of Boulder Canyon Dam is not commenced within said time and thereafter prosecuted to completion with reasonable diligence, then and in such event either party hereto may terminate its obligations hereunder upon one (1) year's written notice to the other party hereto.

Title to Remain in United States

(30) As provided by Section six (6) of the Boulder Canyon Project Act, the title to Boulder Canyon Dam, reservoir, plant and incidental works, shall forever remain in the United States.

Remedies under Contract not Exclusive

(31) Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have.

Member of Congress Clause

(32) No Member of or Delegate to Congress or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written. (Executed in quadruplicate original.)

Attest:

NORTHCUTT ELY (S)

Approved as to form:

By W. B. Mathews (Signed)
General Counsel

Attest:

S. H. Finley (Signed)
Secretary of the Board of Directors

THE UNITED STATES OF AMERICA,
By RAY LYMAN WILBUR (S)
Secretary of the Interior

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
By W. P. Whitsett (Signed).
Chairman of the Board of Directors.

(Corporate Seal)

APPENDIX NO. 21

AMENDED WATER CONTRACT: UNITED STATES AND METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Sept. 28, 1931

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

BOULDER CANYON PROJECT

Supplementary Contract for Delivery of Water

1. **This Supplementary Contract**, made this 28th day of September, nineteen hundred thirty-one, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Reclamation Law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat. 1057), designated the Boulder Canyon Project Act, between **The United States of America**, hereinafter referred to as the United States, acting for this purpose by Ray Lyman Wilbur, Secretary of the Interior, hereinafter styled the Secretary, and **The Metropolitan Water District of Southern California**, a public corporation, hereinafter referred to as the District, organized and existing under and by virtue of the laws of the State of California:

Witnesseth:

Explinatory Recitals

2. **Whereas**, there was executed on the 24th day of April, 1930, a contract between the **United States** and

the District, entitled "Contract for Delivery of Water," which said contract provides, among other things, for the delivery to the District each year from the Boulder Canyon Reservoir up to but not to exceed one million fifty thousand (1,050,000) acre-feet of water; and

3. **Whereas,** under date of November 5, 1930, the Secretary requested of the Chief of the Division of Water Resources of the State of California, a recommendation for the apportionment of the waters of the Colorado River available for use within the State of California, under the Colorado River Compact, the Boulder Canyon Project Act, and other applicable legislation and regulations, to the end that the same could be included as a uniform clause in each and all of the contracts under the provisions of the Boulder Canyon Project Act between the United States and applicants for water contracts in the State of California; and

4. **Whereas,** in cooperation with the District and applicants for water in the State of California, the Chief of the Division of Water Resources of the State of California made and filed his recommendations in this regard with the Secretary on August 22, 1931, and it is the desire of the partie hereto that the aforesaid contract of date April 24, 1930, be amended in certain particulars so as to conform to the recommendations of said Division of Water Resources insofar as they are set out in Article six (6) hereof;

5. **Now, Therefore,** in consideration of the mutual covenants contained herein and in the said contract of date April 24, 1930, the parties hereto agree as follows to wit:

Delivery of Water by the United States

6. That Article six (6) of the said contract of April 24, 1930, be and the same is hereby amended so as to read as follows:

"*Delivery of Water by the United States.*

(6) The United States shall, from storage available in the reservoir created by Hoover Dam, deliver to the District each year at a point in the Colorado River immediately above the District's point of diversion (at or in the vicinity of the proposed Parker Dam), so much water as may be necessary to supply the District a total quantity, including all other waters diverted by the District from the Colorado River, in the amounts and with priorities in accordance with the recommendation of the Chief of the Division of Water Resources of the State of California, as follows (subject to the availability thereof for use in California under the Colorado River Compact and the Boulder Canyon Project Act):

"The waters of the Colorado River available for use within the State of California under the Colorado River Compact and the Boulder Canyon Project Act shall be apportioned to the respective interests below named and in amounts and with priorities therein named and set forth, as follows:

Section 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said District as it now exists and upon lands between said District and the Colorado River, aggregating (within and without said District) a gross area of 104,500 acres, such waters as may be required by said lands;

Section 2. A second priority to Yuma Project of United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land located in said project in California, such waters as may be required by said lands.

Section 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa," adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 3,850,000 acre feet of water per annum less the beneficial consumptive use under the priorities designated in Sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in Sections 1, 2 and 3 of this article shall not exceed 3,850,000 acre feet of water per annum.

Section 4. A fourth priority to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre feet of water per annum.

Section 5. A fifth priority, (a) to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre feet of water per annum and (b) to the City of San Diego and/or

County of San Diego, for beneficial consumptive use, 112,000 acre feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa," adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 300,000 acre feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 7. A seventh priority of all remaining water available for use within California, for agricultural use in the Colorado River Basin in California, as said basin is designated on Map No. 28000 of the Department of the Interior, Bureau of Reclamation.

Section 8. So far as the rights of the allottees named above are concerned, The Metropolitan Water District of Southern California and/or the City of Los Angeles shall have the exclusive right to withdraw and divert into its aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said District and/or said City (not exceeding at any one time 4,750,000 acre feet in the aggregate) by reason of reduced diversions by said District and/or said City; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time

prescribe in his discretion; and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other states without distinction in priority, and to determine the correlative relations between said District and/or said City and such users resulting therefrom.

Section 9. In addition, so far as the rights of the allottees named above are concerned, the City of San Diego and/or County of San Diego shall have the exclusive right to withdraw and divert into an aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said City and or said County (not exceeding at any one time 250,000 acre feet in the aggregate) by reason of reduced diversions by said City and/or said County; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other states without distinction in priority, and to determine the correlative relations between the said City and/or said County and such users resulting therefrom.

Section 10. In no event shall the amounts allotted in this agreement to The Metropolitan Water District of Southern California and/or the City of Los Angeles be increased on account of inclusion of a supply for both said District and said City, and

either or both may use said apportionments as may be agreed by and between said District and said City.

Section 11. In no event shall the amounts allotted in this agreement to the City of San Diego and/or to the County of San Diego be increased on account of inclusion of a supply for both said City and said County, and either or both may use said apportionments as may be agreed by and between said City and said County.

Section 12. The priorities hereinbefore set forth shall be in no wise affected by the relative dates of water contracts executed by the Secretary of the Interior with the various parties.

The Secretary reserves the right to, and the District agrees that he may, contract with any of the allottees above named in accordance with the above stated recommendation, or, in the event that such recommendation as to Palo Verde Irrigation District is superseded by an agreement between all the above allottees or by a final judicial determination, to contract with the Palo Verde Irrigation District in accordance with such agreement or determination: provided, that priorities numbered fourth and fifth shall not thereby be disturbed.

Said water shall be delivered continuously as far as reasonable diligence will permit, but the United States shall not be obligated to deliver water to the District when for any reason such delivery would interfere with the use of Hoover Dam and Boulder Canyon Reservoir for river regulation, improvement of navigation, flood control, and/or satisfaction of

perfected rights, in or to the waters of the Colorado River, or its tributaries, in pursuance of Article VIII of the Colorado River Compact, and this contract is made upon the express condition and with the express covenant that the right of the District to waters of the Colorado River, or its tributaries, is subject to and controlled by the Colorado River Compact. The United States reserves the right to discontinue or temporarily reduce the amount of water to be delivered for the purpose of investigation, inspection, maintenance, repairs, replacement or installation of equipment and or machinery at Hoover Dam, but so far as feasible the United States will give the District reasonable notice in advance of such temporary discontinuance or reduction. The United States, its officers, agents and employees shall not be liable for damages when, for any reason whatsoever, suspensions or reductions in delivery of water occur. This contract is for permanent service, but is made subject to the express covenant and condition that in the event water for the District is not taken or diverted by the District hereunder for District purposes within a period of ten (10) years from and after completion of Hoover Dam as announced by the Secretary, it may in such event, upon the written order of the Secretary, and after hearing, become null and void and of no effect."

Contract of April 24, 1930, Effective Except as Modified

7. Except as expressly modified hereby the aforesaid contract of date April 24, 1930, shall remain in full force and effect.

Member of Congress Clause

8. No Member of or Delegate to Congress or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In Witness Whereof, the parties hereto have caused this supplementary contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA,
By RAY LYMAN WILBUR
Secretary of the Interior.

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA
By W. P. WHITSETT
Chairman of the Board
of Directors.

Attest:
NORTHCUTT ELY

Attest:
S. H. FINLEY,
Secretary of the Board of Directors

Approved as to form:
JAMES H. HOWARD,
General Counsel, The Metropolitan
Water District of Southern California

[Seal]

APPENDIX NO. 22

PARKER DAM COOPERATIVE CONTRACT: UNITED STATES AND METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Feb. 10, 1933

Boulder Canyon Project

Cooperative Contract for Construction and Operation of Parker Dam

1. This contract, made this 10th day of February, 1933, pursuant to the act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Reclamation Law, and particularly pursuant to the act of Congress approved March 4, 1921 (41 Stat. 1367, 1404), section 25 of the act of Congress approved April 21, 1904 (33 Stat. 189, 224), and the act of Congress approved December 21, 1928 (45 Stat. 1057), designated the Boulder Canyon Project Act, and the "Metropolitan Water District Act" of the Legislature of the State of California (Stats. 1927, Chap. 429), as amended, particularly section 5, subdivision (9) thereof, between **The United States of America**, hereinafter referred to as the United States, acting for that purpose by Ray Lyman Wilbur, Secretary of the Interior, hereinafter styled the Secretary, and **The Metropolitan Water District of Southern California**, a public corporation, hereinafter referred to as the District, organized and existing under and by virtue of the laws of the State of California:

Witnesseth:

Explanatory Recitals

2. **Whereas,** these parties have heretofore on April 24, 1930, and September 28, 1931, entered into two contracts entitled respectively "Contract for Delivery of Water," and "Supplementary Contract for Delivery of Water," which said contracts provide, among other things, for the delivery by the United States to the District each year from the Boulder Canyon Reservoir of quantities of water at a point in the Colorado River immediately above the District's point of diversion (at or in the vicinity of the proposed Parker Dam hereinafter referred to), and have also entered into two contracts (dated April 26, 1930, and May 31, 1930), for the purchase by the District from the United States of certain quantities of electrical energy to be generated at Hoover Dam, for the pumping of said water into and in an aqueduct to be constructed by the District; and

3. **Whereas,** the said point of delivery and the proposed Parker Dam are approximately ten (10) miles above the boundaries of the Colorado River Indian Reservation as designated by the act of Congress approved March 3, 1865 (13 Stat. 559), and there are now being irrigated, by pumping, approximately 6000 acres of land within said reservation, and water has been reserved and appropriated pursuant to said act as amended or supplemented and particularly by the act of April 4, 1910 (36 Stat. 273), for additional lands within said reservation susceptible of irrigation from the Colorado River, the reclamation of which will require diversion from the River by construction of a dam, or by pumping or both, and will require drainage of said lands by pumping, for all of which electrical energy is needed; and

4. **Whereas,** there are also in Arizona additional public and other lands in the vicinity of said reservation and also in the Gila Valley, susceptible of irrigation from the Colorado River, but requiring pumping for such purposes, for which electrical energy will be needed, and the United States has now under way an investigation of possible reclamation of such areas as authorized by section fifteen (15) of the said Boulder Canyon Project Act; and

5. **Whereas,** the reclamation of said Indian and public and other lands will be rendered more feasible by the availability of stored water and electrical energy at the proposed Parker Dam, and the floods of the tributaries of the Colorado River between Hoover Dam and Parker Dam will be controlled, and navigation improved, by said dam; and

6. **Whereas,** the Secretary is authorized by said act of April 21, 1904 (33 Stat. 224), to build the proposed Parker Dam for the reclamation of all or any portion of the irrigable lands on the Yuma and Colorado River Indian Reservations in California and Arizona; and such authority has been reserved in the Arizona Enabling Act (act of June 20, 1910, 36 Stat. 570, 575), and

7. **Whereas,** the District is engaged in a project involving the construction of an aqueduct for the purpose of diverting and conveying water from the Colorado River to the metropolitan area of Southern California for domestic, municipal and other useful purposes, and as a means of such diversion, desires storage in the main stream of the Colorado River at the site of the proposed Parker Dam, for the purpose, among others, of desilting water, reducing pump lift and developing incidental electrical energy for pumping water into and in said aqueduct

and other uses subordinate to the said aqueduct project, and the District desires to utilize the proposed Parker Dam in common with the United States and is willing to pay to the United States the entire capital cost of construction of said dam, as hereinafter set forth, and is further willing that one-half of the power privilege created by said dam shall be reserved to the United States for the purposes of irrigation and drainage of lands in Arizona within the Colorado River Indian Reservation, as now constituted, and the Gila or Gila-Parker Project without contribution by the United States to the capital cost of the proposed dam, as hereinafter set forth, and is also willing that the dam be utilized by the United States for the storage and diversion of water for the requirements of Indian, public and other lands in Arizona; and

8. **Whereas,** the Secretary is authorized by the act of Congress approved March 4, 1921, to receive moneys from the District as aforesaid and to effect therewith the construction of the proposed works as though said moneys were specifically appropriated for said purposes; and

9. **Whereas,** funds are not otherwise available for the construction by the United States of said dam and the provision of storage and diversion facilities and of appurtenant works for the irrigation and drainage of said Indian, public and other lands in Arizona and the cooperative construction of the said dam and works, as herein provided, will be mutually advantageous to the parties hereto, and the cost of said dam and appurtenant works will be materially less if constructed during the period of completion of the Hoover Dam now under construction than would otherwise be the case;

Now, Therefore, in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to-wit:

Construction by the United States

10. The United States will, with funds advanced by the District as hereinafter provided, and for the purposes stated in this contract, construct in the main stream of the Colorado River at a point in the vicinity of Parker, Arizona, shown on the map attached hereto and described herein as Exhibit "A", a dam, referred to herein as the Parker Dam, creating thereby a storage reservoir having a maximum water surface elevation of approximately four hundred fifty (450) feet above sea level (U. S. Geological Survey datum). Upon like conditions the United States will also construct outlet works, pressure tunnels, penstocks and other appurtenant structures to the extent that such structures may be necessary and/or economically desirable as parts of the original installation, and such facilities for navigation as the Secretary may find necessary. All buildings intended solely for the use of either party hereto shall be constructed at the sole expense of the party for whom such facilities shall be provided. The dam and appurtenant structures shall be so constructed that subsequent installation of diversion or outlet works shall be possible in the most feasible manner for canal connections with lands within the Colorado River Indian Reservation and with public and other lands in Arizona now or hereafter included in projects constructed under the Reclamation Law and supplementary legislation, or otherwise, subject to the consent and approval of the Secretary, and, if either party hereto requires it, so that one-half of the total installed capacity of electrical generating equipment may be located upon the Arizona side of the river and

one-half on the California side. Outlet works, pressure tunnels, penstocks, connections for canals and appurtenant structures not required by the District shall be completed under this contract only to the extent necessary to permit their subsequent completion and use without risk of damage to the remainder of the work.

In carrying out the proposed work hereunder and in acquiring supplies, materials and equipment therefor, the United States may proceed directly under the method commonly referred to as force account, or may proceed by construction contract. In the event that such contract or contracts shall be let with reference to the construction of said dam, or the acquisition of supplies, materials or equipment therefor, the letting of such contracts shall be governed by the provisions of Section 3709, United States Revised Statutes.

Funds to Be Provided by the District

11. The District will advance to the United States, not to exceed the sum of Thirteen Million Dollars ($13,000,000), or so much thereof as may be (a) the cost of preparation of plans and specifications described in Article 13 hereof; (b) the actual cost of the said dam, including acquisition of lands and rights of way for reservoir and other incidental purposes, outlet works, pressure tunnels and penstocks, to be constructed hereunder, and of the District's proportionate share as determined by the Secretary, of such power plant buildings and generating, transforming and high voltage switching equipment as may be installed for the joint use of the United States and the District, and (c) required to meet any overhead and general expense incurred by the United States in carrying out this contract.

Said funds will be furnished to the United States by payment from time to time to the Secretary or such fiscal agent as he may designate in advance of expenditure thereof by the United States. The Secretary will submit estimates of the monthly anticipated expenditures not less than sixty (60) days in advance, and the District will then advance the amount not less than thirty (30) days prior to the month in which such funds shall be estimated to be required. If the United States effects such construction by contract, such contract shall recite that the United States shall not be liable for any loss occasioned by the failure of the District to advance funds as herein provided. The District agrees to hold the United States harmless from all claims whatsoever arising from any such failure. If the funds provided by the District are at any time insufficient, the United States will stop work (if proceeding under force account), when the funds so advanced are exhausted, or give notice to the construction contractor to stop work (if proceeding by construction contract), when the funds so provided are about to be exhausted, and will not resume or give notice to resume work until additional and sufficient funds are provided by the District; and, in any event, the United States shall not be obligated by this agreement beyond the expenditure of the amount actually provided by the District, whether the proposed works are completed or not. The failure of the District to provide funds shall not impose any liability on the District other than to hold the United States harmless from the consequences thereof, but the United States may be relieved, at its option, of any obligation under this contract, if such failure continues for twelve (12) successive months, after submission of estimate therefor.

by the Secretary's giving the District written notice of the termination of any further obligation of the United States hereunder.

The cost of the proposed works shall embrace all expense of whatever kind, growing out of or resulting from said works, including any overhead and general expense (as conclusively estimated by the Secretary) incurred by the United States in carrying out this contract. Nothing contained in this article is to be construed as obligating the United States to expend or Congress to appropriate money for any share of (a) said power plant buildings or (b) said generating, transforming and high voltage switching equipment intended for the joint use of the parties hereto.

No Obligation by the United States to Pay for Works Constructed

12. The United States shall not be under any obligation to repay to the District, or otherwise contribute toward, the cost of any works built with funds provided by the District.

Preparation of Plans and Specifications

13. The designs and specifications for all construction or other work under this contract (including exploratory and preparatory work) shall be prepared by the United States with the cooperation of and at the cost of the District, and shall be approved in writing by the General Manager and Chief Engineer of the District, or such other officer as the Directors thereof may designate, prior to performance thereof or the letting of contracts for such work.

Duration of Contract

14. Upon written notice from the District to the Secretary that funds will be available to carry out the work to be constructed hereunder, the United States agrees to submit within thirty (30) days following such notice its first estimate of funds required during the first thirty (30) days of work hereunder and to proceed thereafter with reasonable diligence. It is contemplated that as far as practicable, the proposed works shall be constructed coincidentally with the construction of Hoover Dam and the filling of the reservoir thereby created and that any contract let by the United States for the erection of Parker Dam shall so provide; but neither the United States nor the District shall incur liability to the other through the non-completion of said works within said period. This contract shall terminate on December 31, 1945, unless prior thereto the District shall have advanced sufficient funds for all works to be constructed by the United States hereunder, and in the event of such termination, all rights of the District under this contract shall cease, and the uncompleted works, together with the rights to the use thereof, shall vest in the United States.

POWER AND OTHER PRIVILEGES

15. (I) The interest of both parties require and it is agreed that the water surface of the reservoir to be created by Parker Dam shall be maintained as nearly as possible at a level of 450 feet above sea level (U. S. Geological Survey datum) at the dam.

II. It is agreed that the United States shall have and may exercise the following rights and such incidental authority as may be necessary to make them effective:

(a) The right to control all water passing the dam; provided, however, that the water level stated in Article 15 (1) hereof shall not be arbitrarily reduced but may be temporarily reduced from time to time to a minimum elevation of 440 feet above sea level, and the water level shall not be reduced below said minimum level except in cases of emergency affecting the safety of the said dam and appurtenant works.

(b) The right, without contribution to the cost of the dam built under this contract, to one-half the power privilege created thereby for use in the irrigation and drainage of lands in Arizona within the Colorado River Indian Reservation as now constituted and the Gila or Parker-Gila Project, as determined by the Secretary and for other purposes incidental to said Colorado River Indian Reservation and Gila or Parker-Gila Project; that is to say, the right to pass through such generating equipment as it may install, one-half, the total available flow at the dam at any given time, after deductions for diversions being made above the dam for the District's aqueduct and for the irrigation of (1) the Colorado River Indian Reservation, as now constituted, and (2) public and other lands in Arizona, now or hereafter included in projects constructed under the Reclamation Law and supplementary legislation, or otherwise, subject to the consent and approval of the Secretary, and the right to so utilize such portion of the balance of the power privilege as aforesaid as may not be used by the District for the time being.

(c) The right to connect with such transmission system as the District may construct for the purpose of utilizing any power transmission capacity in excess of the District's requirements; for the transmission of power from Hoover

Dam to Parker Dam for general use within the Colorado River Indian Reservation, as now constituted, and Gila or Parker-Gila Project, as determined by the Secretary; provided that such excess capacity shall be subject to reasonable operating conditions fixed by the District, and that the United States shall pay to the District the cost of transmission of such power as may be transmitted by use of such excess capacity hereunder;

(d) The right to connect with the Parker Dam and/or the reservoir created thereby by means of a canal (including such outlet and diversion features at Parker Dam as may be necessary or advisable) with lands within the Colorado River Indian Reservation, as now constituted, and with public and other lands in Arizona or California, now or hereafter included in projects constructed under the Reclamation Law and supplementary legislation, or otherwise, subject to the consent and approval of the Secretary, and the right to thereby divert such quantities of water as may be consistent with the Colorado River Compact and the Boulder Canyon Project Act.

III. It is agreed that the District shall have and may exercise the following rights and such incidental authority as may be necessary to make them effective:

(a) The right to one-half of the power privilege created by the proposed Parker Dam for the purpose of developing electrical energy for pumping water into and in the said aqueduct and other uses incidental to said aqueduct project in California; that is to say, the right to pass through such generating equipment as it may install, one-half the total available flow at the dam at any given time, after deductions for diversions being made above the dam for the District's aqueduct and for the irrigation of

(1) the Colorado River Indian Reservation, as now constituted, and (2) public and other lands in Arizona, now or hereafter included in projects constructed under the Reclamation Law and supplementary legislation, or otherwise, subject to the consent and approval of the Secretary, and the right to utilize for said purpose such portion of the balance of the power privilege as aforesaid as may not be used by the United States for the time being.

(b) The right to divert water from the said Parker Dam and/or the reservoir created thereby, by means of an aqueduct, canal or other appropriate works (including such outlet and diversion features at Parker Dam as may be necessary or advisable) for domestic, municipal and other beneficial use within the area of the District, as now or hereafter constituted, in California, and to thereby divert such quantities of water as may be consistent with the Boulder Canyon Project Act, the Colorado River Compact and the said contracts heretofore entered into between the United States and the District and described and referred to in Article 2 hereof.

Installation of Machinery

16. Machinery and equipment for generating, transforming, and high voltage switching of energy for the sole use of the District shall be installed, owned and operated by the District at its own expense. The District shall not be liable for the cost of generating or other electrical equipment installed for the sole use of the United States.

Operation and Maintenance of Reservoir, Dam and Outlet Works

17. The United States will operate and maintain the reservoir, dam and outlet works, to, but not including shut-off valves, and reserves the right to direct the control of all water passing the dam for any and all purposes; provided that contracts now in force between the parties hereto shall not be thereby impaired. So long as the United States shall make no use of the reservoir, the cost of operation and maintenance (which shall include repairs and replacements and a reasonable amount, as determined by the Secretary, for general expenses and overhead, but excluding contingent liabilities and/or damages) shall be paid monthly in advance by the District to the United States within sixty (60) days of submission of estimates therefor. If and when the United States shall use or authorize the use of said reservoir for diversion of water and/or development of power, the annual cost of maintenance and operation of the reservoir and dam (as hereinabove in this paragraph limited and defined) shall be pro-rated upon the basis of the diversions by each party into their respective aqueducts, canals and power plants, and shall be paid in direct proportion to the uses so made by the District and the United States.

Operation and Maintenance of Power Plant and Power Plant Buildings

18. The District will operate and maintain at its own cost all buildings and equipment used solely by it for the generation of electrical energy, from and including shut-off valves. The United States will operate and maintain at its own cost all buildings and equipment used solely by

the United States for the generation of electrical energy, subject to the availability of appropriations therefor by Congress, and said operation and maintenance shall be effected by the United States through such agency as the Secretary shall designate.

Title

19. Title to the dam and all other structures erected by the United States, whether utilized by it or by the District, or by both, shall remain in the United States.

United States to Be Held Harmless

20. The District agrees to save the United States, its officers, agents and employees harmless from all claims whatsoever arising out of the construction and maintenance of said dam, and from all claims whatsoever arising out of such operation thereof as may be necessitated by the requirements of the District. The District agrees to pay all damages resulting from the flooding of lands, and, to the extent that lands within the Chimehuevi Indian Reservation are damaged, payment therefor will be made to the United States for the benefit of said Reservation.

Access to Work and to Books and Records

21. Accredited officers of the District shall have the right of ingress to and egress from all work done under this contract, both in progress and after completion, and the right at all reasonable hours to examine and make copies of any books, records, drawings or specifications thereof; and the United States shall have a like right as to all pertinent books, records, drawings and specifications of the District. Upon demand and at not less than

thirty day intervals, the United States will furnish to the District detailed statement of all costs and expenditures in connection with and/or chargeable against the proposed Parker Dam Project.

Existing Contracts Between the United States and the District Not Affected

22. Existing contracts between the United States and the District shall remain in full force and effect and unaltered by the provisions of this agreement.

Transfer of Interest in Contract

23. No voluntary transfer of this contract, or of the rights hereunder, shall be made without the written approval of the Secretary; and any successor or assign of the rights of the District, whether by voluntary transfer, or otherwise, shall be subject to all the conditions of the Reclamation Law and supplementary legislation, and also subject to all the provisions and conditions of this contract, to the same extent as though such successor or assign were the original contractor hereunder.

Rules and Regulations

24. This contract is subject to such rules and regulations, conforming to the Reclamation Law and supplementary legislation and other statutes cited in this contract, as the Secretary may from time to time promulgate: *provided*, however, that no right of the District hereunder shall be impaired or obligation of the District hereunder shall be extended thereby; and *provided further*, that opportunity for hearing shall be afforded the District by the Secretary prior to promulgation or modification of any such rules and regulations.

Agreement Subject to Colorado River Compact

25. This contract is made upon the express condition and with the express understanding that all rights hereunder shall be subject to and controlled by the Colorado River Compact, being the compact or agreement signed at Santa Fe, New Mexico, November 24, 1922, pursuant to the Act of Congress approved August 19, 1921 (42 Stat. 171), entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes," which Compact was approved in Section 13 (a) of the Boulder Canyon Project Act.

Disputes and Disagreements

26. Whenever a controversy arises out of this contract, and if the disputants then agree to submit the matter to arbitration, the District shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within five (5) days after their first meeting, such arbitrators, not so elected, shall be named by the Senior Judge of the United States Circuit Court of Appeals for the Ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

Member of Congress Clause

27. No Member of or Delegate to Congress or Resident Commissioner, shall be admitted to any share or part

of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA
By RAY LYMAN WILBUR
Secretary of the Interior

Attest:
NORTHCUTT ELY

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA,
By W. P. WHITSETT,
Chairman of the Board of Directors

Approved as to Form
By JAMES H. HOWARD
General Counsel

Attest:
[Seal]
S. H. FINLEY
Secretary of the Board of Directors

APPENDIX NO. 23

WATER DELIVERY CONTRACT: UNITED STATES and SAN DIEGO

February 15, 1933

(1) **This contract,** made this 15th day of February nineteen hundred thirty-three, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the reclamation law, and particularly pursuant to the Act of Congress approved December 21, 1928 (45 Stat. 1057), designated the Boulder Canyon Project Act, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, acting for this purpose by Ray Lyman Wilbur, Secretary of the Interior, hereinafter styled the Secretary, and THE CITY OF SAN DIEGO, a municipal corporation of the State of California, hereinafter styled the City, organized under a freeholders' charter:

Witnesseth:

Explanatory Recitals

(2) **Whereas,** for the purpose of controlling the floods, improving navigation and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters for reclamation of public lands and other beneficial uses exclusively within the United States, the Secretary, subject to the terms of the Colorado River Compact, is authorized to construct, operate and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon, adequate to create a storage reservoir of a capacity of not less than twenty million acre-feet of water, and a main

canal and appurtenant structures located entirely within the United States connecting the Laguna Dam, or other suitable diversion dam with the Imperial and Coachella Valleys in California; and

(3) **Whereas,** the United States contemplates entering into an agreement with Imperial Irrigation District, an irrigation district organized and existing under and by virtue of the laws of the State of California, providing, among other things, for the construction of a main canal and appurtenant structures, authorized as aforesaid, and reserving under conditions to be therein stated, the right to increase the capacity of said works and to contract for such increased capacity with other agencies for the delivery of water for use within the United States; and

(4) **Whereas,** the United States and the City contemplate hereafter entering into a contract by which provision will be made for increasing, for the City's benefit and at its cost, the capacity of the main canal and appurtenant works to be constructed for Imperial Irrigation District, as aforesaid; and

(5) **Whereas,** the City is desirous of entering into a contract for the delivery to it of water from Boulder Canyon Reservoir;

(6) **Now, therefore,** in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to wit:

Delivery of Water by United States

(7) The United States shall, from storage available in the reservoir created by Hoover Dam, deliver to the City each year at a point in the Colorado River immediately above Imperial Dam, so much water as may be necessary

to supply the City a total quantity, including all other waters diverted by the City from the Colorado River, in the amounts and with priorities in accordance with the recommendation of the Chief of the Division of Water Resources of the State of California, as follows (subject to the availability thereof for use in California under the Colorado River Compact and the Boulder Canyon Project Act):

The waters of the Colorado River available for use within the State of California under the Colorado River Compact and the Boulder Canyon Project Act shall be apportioned to the respective interests below named and in amounts and with priorities therein named and set forth, as follows:

Section 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said District as it now exists and upon lands between said District and the Colorado River, aggregating (within and without said District) a gross area of 104,500 acres, such waters as may be required by said lands.

Section 2. A second priority to Yuma Project of United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land located in said project in California, such waters as may be required by said lands.

Section 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adja-

cent to Palo Verde Irrigation District, for beneficial consumptive use, 3,850,000 acre feet of water per annum less the beneficial consumptive use under the priorities designated in Sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in Sections 1, 2, and 3 of this article shall not exceed 3,850,000 acre feet of water per annum.

Section 4. A fourth priority to the Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre feet of water per annum.

Section 5. A fifth priority, (a) to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre feet of water per annum and (b) to the City of San Diego and/or County of San Diego, for beneficial consumptive use, 112,000 acre feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adjacent to Palo Verde Irrigation District, for beneficial

consumptive use, 300,000 acre feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 7. A seventh priority of all remaining water available for use within California, for agricultural use in the Colorado River Basin in California, as said basin is designated on Map No. 23000 of the Department of the Interior, Bureau of Reclamation.

Section 8. So far as the rights of the allottees named above are concerned, The Metropolitan Water District of Southern California and/or the City of Los Angeles shall have the exclusive right to withdraw and divert into its aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said District and/or said City (not exceeding at any one time 4,750,000 acre feet in the aggregate) by reason of reduced diversions by said District and/or said City; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between said District and/or said City and such users resulting therefrom.

Section 9. In addition, so far as the rights of the allottees named above are concerned, the City of San Diego and/or County of San Diego shall have the

exclusive right to withdraw and divert into an aqueduct any water in Boulder Canyon Reservoir accumulated to the individual credit of said City and/or said County (not exceeding at any one time 250,000 acre-feet in the aggregate) by reason of reduced diversions by said City and/or said County; provided, that accumulations shall be subject to such conditions as to accumulation, retention, release and withdrawal as the Secretary of the Interior may from time to time prescribe in his discretion, and his determination thereof shall be final; provided further, that the United States of America reserves the right to make similar arrangements with users in other States without distinction in priority, and to determine the correlative relations between the said City and/or said County and such users resulting therefrom.

Section 10. In no event shall the amounts allotted in this agreement to The Metropolitan Water District of Southern California and/or the City of Los Angeles be increased on account of inclusion of a supply for both said District and said City, and either or both may use said apportionments as may be agreed by and between said District and said City.

Section 11. In no event shall the amounts allotted in this agreement to the City of San Diego and/or to the County of San Diego be increased on account of inclusion of a supply for both said City and said County, and either or both may use said apportionments as may be agreed by and between said City and said County.

Section 12. The priorities hereinbefore set forth shall be in no wise affected by the relative dates of

water contracts executed by the Secretary of the Interior with the various parties.

The Secretary reserves the right to, and the District agrees that he may, contract with any of the allottees above named in accordance with the above stated recommendation, or, in the event that such recommendation as to Palo Verde Irrigation District is superseded by an agreement between all the above allottees or by a final judicial determination, to contract with the Palo Verde Irrigation District in accordance with such agreement or determination; provided, that priorities numbered fourth and fifth shall not thereby be disturbed.

Said water shall be delivered continuously as far as reasonable diligence will permit, but the United States shall not be obligated to deliver water to the City when for any reason such delivery would interfere with the use of Hoover Dam and Boulder Canyon Reservoir for river regulation improvement of navigation, flood control, and or satisfaction of perfected rights, in or to the waters of the Colorado River, or its tributaries, in pursuance of Article VIII of the Colorado River Compact, and this contract is made upon the express condition and with the express covenant that the right of the City to waters of the Colorado River, or its tributaries, is subject to and controlled by the Colorado River Compact. The United States reserves the right to discontinue or temporarily reduce the amount of water to be delivered for the purpose of investigation, inspection, maintenance, repairs, replacements or installation of equipment and/or machinery at Hoover Dam, but so far as feasible the United States will give the City reasonable notice in advance of such tem-

porary discontinuance or reduction. The United States, its officers, agents and employees shall not be liable for damages when, for any reason whatsoever, suspensions or reductions in delivery of water occur.

Deliveries hereunder shall be in satisfaction of the allocation to the City and the County of San Diego, and shall be used within the County as the City and the County may agree, or as the State of California may allocate in the event of disagreement between the City and the County.

This contract is for permanent service, but is made subject to the express covenant and condition that in event water is not taken or diverted by the City hereunder within a period of ten (10) years from and after completion of Hoover Dam as announced by the Secretary, it may in such event, upon the written order of the Secretary, and after hearing, become null and void and of no effect.

Receipt of Water by City

(8) The City shall receive the water to be delivered to it by the United States under the terms hereof at the point of delivery above stated, and shall perform all acts required by law or custom in order to maintain its control over such water and to secure and maintain its lawful and proper diversion from the Colorado River.

Measurement of Water.

(9) The water to be delievered hereunder shall be measured by such measuring and controlling devices or such automatic gauges or both, as shall be satisfactory to the Secretary. Said measuring and controlling devices, or automatic gauges, shall be furnished, installed and maintained by and at the expense of the City, but they shall be

and remain at all times under the complete control of the United States, whose authorized representatives may at all times have access to them over the lands and rights-of-way of the City.

Record of Water Diverted

(10) The City shall make full and complete written monthly reports as directed by the Secretary, on forms to be supplied by the United States, of all water diverted from the Colorado River. Such reports shall be made by the fifth day of the month immediately succeeding the month in which the water is diverted, and the records and data from which such reports are made shall be accessible to the United States on demand of the Secretary.

Charge for Delivery of Water

(11) A charge of twenty-five cents (0.25) per acre-foot shall be made for water delivered to the City hereunder during the Hoover Dam cost repayment period.

Monthly Payments and Penalties

(12) The City shall pay monthly for all water delivered to it hereunder, or diverted by it from the Colorado River, in accordance with the rate herein in Article eleven (11) established. Payments shall be due on the first of the second month immediately succeeding the month in which water is delivered and/or diverted. If such charges are not paid when due, a penalty of one per centum (1%) of the amount unpaid shall be added thereto, and thereafter an additional penalty of one per centum (1%) of the amount unpaid shall be added on the first day of each calendar month during such delinquency.

Refusal of Water in Case of Default.

(13) The United States reserves the right to refuse to deliver water to the City in the event of default for a period of more than twelve (12) months in any payment due or to become due the United States under this contract.

Inspection by the United States

(14) The Secretary or his representatives, shall at all times have the right of ingress to and egress from all works of the City for the purpose of inspection, repairs and maintenance of works of the United States, and for all other proper purposes. The Secretary or his representatives shall also have free access at all reasonable times to the books and records of the City relating to the diversion and distribution of water delivered to it hereunder with the right at any time during office hours to make copies of or from the same.

Disputes or Disagreements

(15) Disputes or disagreements as to the interpretation or performance of the provisions of this contract shall be determined either by arbitration or court proceedings, the Secretary of the Interior being authorized to act for the United States in such proceedings. Whenever a controversy arises out of this contract, and the parties hereto agree to submit the matter to arbitration, the City shall name one arbitrator and the Secretary shall name one arbitrator, and the two arbitrators thus chosen shall elect three other arbitrators, but in the event of their failure to name all or any of the three arbitrators within five (5) days after their first meeting, such arbitrators, not so elected, shall be named by the Senior Judge of the United

States Circuit Court of Appeals for the ninth Circuit. The decision of any three of such arbitrators shall be a valid and binding award of the arbitrators.

Rules and Regulations

(16) There is reserved to the Secretary the right to prescribe and enforce rules and regulations governing the delivery and diversion of water hereunder. Such rules and regulations may be modified, revised and/or extended from time to time after notice to the City and opportunity for it to be heard, as may be deemed proper, necessary, or desirable by the Secretary to carry out the true intent and meaning of the law and of this contract, or amendments hereof, or to protect the interests of the United States. The City hereby agrees that in the operation and maintenance of its diversion works and aqueduct, all such rules and regulations will be fully adhered to.

Agreement Subject to Colorado River Compact

(17) This contract is made upon the express condition and with the express understanding that all rights hereunder shall be subject to and controlled by the Colorado River Compact, being the compact or agreement signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes", which Compact was approved in Section 13 (a) of the Boulder Canyon Project Act.

Priority of Claims of the United States

(18) Claims of the United States arising out of this contract shall have priority over all others, secured or unsecured.

Contingent upon Appropriations

(19) This contract is subject to appropriations being made by Congress from year to year of moneys sufficient to do the work provided for herein, and to there being sufficient moneys available in the Colorado River Dam Fund to permit allotments to be made for the performance of such work. No liability shall accrue against the United States, its officers, agents, or employees, by reason of sufficient moneys not being so appropriated nor on account of there not being sufficient moneys in the Colorado River Dam Fund to permit of said allotments. This agreement is also subject to the condition that if for any reason construction of Hoover Dam is not prosecuted to completion with reasonable diligence, then and in such event either party hereto may terminate its obligations hereunder upon one (1) year's written notice to the other party hereto.

Rights Reserved under Section 3737 Revised Statutes

(20) All rights of action for breach of any of the provisions of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Remedies under Contract not Exclusive

(21) Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have.

Interest in Contract not Transferable

(22) No interest in this agreement is transferable, and no sublease shall be made, by the City without the written consent of the Secretary, and any such attempted transfer or sublease shall cause this contract to become subject to annulment, at the option of the United States.

Member of Congress Clause

(23) No Member of or Delegate to Congress or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

In Witness Whereof, the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA.
By RAY LYMAN WILBUR
Secretary of the Interior.

THE CITY OF SAN DIEGO.
By JOHN HOWARD, JR.
Mayor.

Attest:
NORTHCUTT ELY
RICHARD J. COFFEY

Approved as to form
C. L. BYERS
City Attorney

Attest:
ALLEN W. WRIGHT
City Clerk

As evidence of its approval of the foregoing contract between the United States and the City, the County of San Diego has caused the signature of the Chairman of its Board of Supervisors to be affixed thereto.

THE BOARD OF SUPERVISORS OF
SAN DIEGO COUNTY
By TOM HURLEY
Chairman.

Attest:
J. B. McLEES
County Clerk

Approved as to form: Feb 7 1933
RAY LYMAN WILBUR
Ray Lyman Wilbur, Secretary of the Interior.

APPENDIX NO. 24

MERGER OF SAN DIEGO WATER DELIVERY CONTRACT WITH THAT OF METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

October 4, 1946

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
BOULDER CANYON PROJECT
Arizona-California-Nevada

Contract Merging Rights of The City of San Diego and The Metropolitan Water District of Southern California Under Contracts with the United States Dated February 15, 1933, and April 24, 1930 (Amended September 28, 1931), Respectively

1. **This Contract**, made this 4th day of October, 1946, pursuant to the Act of Congress, approved June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto, all of which Acts are commonly known and referred to as the Reclamation Law and particularly pursuant to the Act of Congress, approved December 21, 1928 (45 Stat. 1057), designated the Boulder Canyon Project Act, between **The United States of America** (hereinafter referred to as the "United States"), acting for this purpose by Warner W. Gardner, Acting Secretary of the Interior (hereinafter referred to as the "Secretary"), **The City of San Diego**, a municipal corporation (hereinafter referred to as "San Diego"), the **San Diego County Water Authority**, a municipal corporation (hereinafter referred to as the "Authority"), and

The Metropolitan Water District of Southern California, a public corporation (hereinafter referred to as the "District"); **Witnesseth That:**

2. **Whereas**, under date of August 18, 1931, the Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley County Water District, The Metropolitan Water District of Southern California, City of Los Angeles, The City of San Diego and County of San Diego entered into an agreement fixing their respective priorities in waters of the Colorado River available for use in California under the Colorado River Compact and the Boulder Canyon Project Act, which said contract is hereinafter referred to as the "Seven-Party Priority Agreement"; and

3. **Whereas**, under date of April 24, 1930, the United States and the District entered into a water delivery contract, which contract, as amended by supplementary contract between said parties dated September 28, 1931, provides for delivery by the United States to the District of waters of the Colorado River in accordance with said schedule of priorities as fixed in the Seven-Party Priority Agreement; said Contract, as amended by said Supplementary contract of September 28, 1931, being herein referred to as the "District's Water Delivery Contract"; and

4. **Whereas**, under date of February 15, 1933, the United States and San Diego entered into a water delivery contract approved by the County of San Diego, which contract provides for the delivery by the United States to San Diego of waters of the Colorado River, in accordance with said schedule of priorities as fixed in the Seven-Party Priority Agreement, said contract being for the benefit of San Diego and the County of San Diego,

and being hereinafter referred to as the "San Diego Water Delivery Contract"; and

5. **Whereas,** the priorities so agreed upon, and set out in said Seven-Party Priority Agreement and said water delivery contracts, are as follows, to-wit:

"Section 1. A first priority to Palo Verde Irrigation District for beneficial use exclusively upon lands in said district as it now exists and upon lands between said district and the Colorado River, aggregating (within and without said district) a gross area of 104,500 acres, such waters as may be required by said lands.

Section 2. A second priority to Yuma Project of United States Bureau of Reclamation for beneficial use upon not exceeding a gross area of 25,000 acres of land located in said project in California, such waters as may be required by said lands.

Section 3. A third priority (a) to Imperial Irrigation District and other lands under or that will be served from the All American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 3,850,000 acre feet of water per annum less the beneficial consumptive use under the priorities designated in sections 1 and 2 above. The rights designated (a) and (b) in this section are equal in priority. The total beneficial consumptive use under priorities stated in sections 1, 2 and 3 of this article shall not exceed 3,850,000 acre feet of water per annum.

Section 4. A fourth priority to The Metropolitan

Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use, by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre feet of water per annum.

Section 5. A fifth priority (a) to The Metropolitan Water District of Southern California and/or the City of Los Angeles, for beneficial consumptive use by themselves and/or others, on the Coastal Plain of Southern California, 550,000 acre feet of water per annum and (b) to The City of San Diego and/or County of San Diego, for beneficial consumptive use, 112,000 acre feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 6. A sixth priority (a) to Imperial Irrigation District and other lands under or that will be served from the All American Canal in Imperial and Coachella Valleys, and (b) to Palo Verde Irrigation District for use exclusively on 16,000 acres in that area known as the "Lower Palo Verde Mesa", adjacent to Palo Verde Irrigation District, for beneficial consumptive use, 300,000 acre feet of water per annum. The rights designated (a) and (b) in this section are equal in priority.

Section 7. A seventh priority of all remaining water available for use within California for agricultural use in the Colorado River Basin in California, as said basin is designated on Map No. 23000 of the Department of the Interior, Bureau of Reclamation;"

and

6. **Whereas,** the Authority was created pursuant to the provisions of the "County Water Authority Act" of the State of California (Stats. 1943, p. 2090) and includes the corporate area of San Diego, together with other portions of the County of San Diego, and was created to the end that San Diego and other parts of the said county may participate in the benefit of Colorado River water as contemplated by the terms of said contract between the United States and San Diego, dated February 15, 1933; and

7. **Whereas,** it is provided in the said County Water Authority Act that each public agency whose corporate area shall be a part of the Authority (San Diego, by definition, being considered a public agency for the purposes of said Act) shall have a preferential right to purchase from the Authority a percentage of the water supply of the Authority, determined as therein set out; and

8. **Whereas,** the act under which the District was incorporated provides that each city whose corporate area shall be a part thereof (the Authority, by definition, being considered a city for the purposes of said act) shall have a preferential right to purchase from the District a percentage of the water supply of the District, determined as therein set out; and

9. **Whereas,** it is proposed to submit to the electors of the Authority the proposition of annexing the corporate area of the Authority to the District, and, in the event that such corporate area of the Authority shall be so annexed to and become a part of the District, it would be against the public interest that any part of the enlarged District should participate in the water supply administered by the District, in any manner or under any sched-

ule of priority differing from that generally applicable in other parts of the District, and the public interest will be best served, in the event of such annexation, by merging the contract rights and certain priorities as herein provided, and, so far as the parties hereto are concerned, treating such priorities as a single priority, to be vested in, and administered by, the District; and

10. **Whereas,** in the event of annexation of the corporate area of the Authority to the District, under the terms of the Metropolitan Water District Act, the Authority will have a right in the aggregate water supply of the District, and San Diego, whose corporate area is a part of the Authority, under the terms of the County Water Authority Act, will have a right in the water available to the Authority; and

11. **Whereas,** the right to participate in the use of the waters of the Colorado River, which San Diego will enjoy by reason of its corporate area being a part of the Authority and the corporate area of the Authority being a part of the District, will be of great value to San Diego, and the interests of San Diego will be protected and advanced by the execution of this contract;

Now, Therefore, in consideration of the premises, it is agreed that:

12. Under the conditions set out in Article 14 hereof and not otherwise, the right to storage and delivery of Colorado River water now vested in San Diego for the benefit of San Diego and the County of San Diego and evidenced by said San Diego Water Delivery Contract, shall be and is hereby assigned and transferred to and vested in the District and shall be and is hereby merged with and added to the rights of the District under the

District's Water Delivery Contract, and the rights and obligations now vested in and imposed on San Diego as evidenced by said San Diego Water Delivery Contract shall be and are hereby accepted and assumed by said District and such rights and obligations shall be administered and observed by the District and considered a part of the water supply and a part of the rights and obligations of the District for all purposes and particularly for the purposes of Section 5½ of the Metropolitan Water District Act, without reference to priority as between the Authority and any other part or parts of the District, provided that as between the District (including the Authority) and the United States and other parties to the Seven-Party Priority Agreement, nothing herein shall be construed as increasing the amount of water available to the District and/or the Authority under the fourth priority set out in the recitals hereof, or otherwise prejudicing the respective rights of other parties to the Seven-Party Priority Agreement in the water of the Colorado River. The point of delivery of all water delivered to the District under its outstanding water delivery contract and hereunder, shall be at the District's intake above Parker Dam and the United States hereby agrees that the diversion point of water heretofore agreed to be delivered to San Diego under said water delivery contract of February 15, 1933, is hereby transferred from the point on the Colorado River immediately above the Imperial Dam to the District's intake at a point on the Colorado River immediately above Parker Dam.

13. In the event that the corporate area of the Authority shall at any time cease to be a part of the District, the said contract between the United States and San Diego dated February 15, 1933, shall be revived and re-

instated, and shall thereupon become severally operative; provided, that the right of the Secretary to cancel such contract for the nonuse of water thereunder, shall not be exercised within ten years from the date when the corporate area of the Authority shall cease to be a part of the District.

14. This contract shall be of no force or effect until and unless:

(a) The corporate area of the Authority is annexed to the corporate area of the District prior to December 31, 1946, and at a time when the corporate area of San Diego is a part of the corporate area of the Authority;

(b) A majority of the qualified electors of San Diego voting on the proposition shall authorize the transfer and assignment to the District by San Diego of San Diego's rights and obligations under the Water Delivery Contract between the United States and the City of San Diego dated February 15, 1933, relating to the waters of the Colorado River;

(c) A majority of the qualified electors of San Diego voting on the proposition shall authorize the transfer and assignment to the Authority of San Diego's rights and obligations under the contract dated October 17, 1945 (NOy-13300), granting San Diego a lease of the aqueduct being constructed by the United States Navy from San Jacinto Tunnel to San Vicente Reservoir, except San Diego's obligations under Article 2 (a) of said contract to construct a water treatment plant and other works as contemplated by the San Diego bond issue approved April 17, 1945, and the obligation under Article 2 (c)

of said contract that San Diego supply all Government agencies within the area with an adequate supply of water at nondiscriminatory rates, and on condition that if the Authority shall cease to be a portion of the corporate area of The Metropolitan Water District of Southern California, the said Lease-Contract shall revert to San Diego, subject to all modifications, defaults or acts of the Authority, affecting the said Lease Contract;

(d) A majority of the qualified electors of the Authority voting on the proposition shall authorize the acceptance of the rights and the assumption by the Authority of the obligations transferred to the Authority by the assignment of the contract dated October 17, 1945 (NOy-13300).

15. This contract is made upon the express condition, and with the express understanding, that all rights hereunder shall be subject to and controlled by, the Colorado River Compact, being the Compact signed at Santa Fe, New Mexico, November 24, 1922, which compact was approved in Section 13 (a) of the Boulder Canyon Project Act.

16. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

17. Except as expressly modified by the terms hereof, outstanding contracts between the United States and the respective parties hereto shall remain in full force and effect.

18. This contract shall be known as the "1946 Merger Contract".

In Witness Whereof, the parties hereto have executed this contract the day and year first above written.

THE UNITED STATES OF AMERICA,
By WARNER W. GARDNER
Acting Secretary of the Interior

THE CITY OF SAN DIEGO,
By F. A. RHODES
City Manager

[Seal]
Attest:
FRED W. DICK
City Clerk

SAN DIEGO COUNTY WATER AUTHORITY,
By J. L. BURKHOLDER
General Manager

[Seal]
Attest:
W. H. JENNINGS
Secretary

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,
By JULIAN HINDS
General Manager and Chief Engineer

[Seal]
Attest:
A. L. GRAIN
Executive Secretary
Approved as to Form:
JAMES H. HOWARD
General Counsel

As evidence of its approval of the foregoing contract between the United States, The City of San Diego, the San Diego County Water Authority and The Metropolitan Water District of Southern California, the County of San Diego has caused the signature of the Chairman of Its Board of Supervisors to be affixed thereto.

BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO,
By DAN ROSSI
Chairman pro tem

[Seal]

Attest:
J. B. McLEES
County Clerk
By M. NASLAND, Deputy

I Hereby Approve the form and legality of the within 1946 **Merger Contract**, this 9th day of October, 1946.

J. F. DUPAUL,
J. F. DuPaul,
City Attorney, The City of San Diego.

APPENDIX NO. 25

AQUEDUCT CONSTRUCTION CONTRACT: UNITED STATES AND CITY OF SAN DIEGO

October 17, 1945

This Negotiated Contract made this 17th day of October, 1945, between the **United States of America** (hereinafter called the "Government"), represented by the **Chief of the Bureau of Yards and Docks, Navy Department** (hereinafter called the "Contracting Officer") and the **City of San Diego** (hereinafter called the "City"), a municipal corporation organized and existing under and by virtue of the laws of the State of California,

Witnesseth:

Whereas, it is recognized that the deficiency of the water supply in San Diego County, California, has become of emergency importance to the Government, owing to the large Naval, other military, Federal housing, and other Government installations in the area; and

Whereas, as a result of extended studies by the interested parties a joint program has been formulated as hereinafter provided which it is anticipated will effectively eliminate such water supply deficiency; and

Whereas, the Contracting Officer has determined that the accomplishment of the provisions of this contract, including the furnishing by the Government of extensive facilities on the terms provided, is necessary in the interest of the national defense;

Now, Therefore, it is mutually agreed as follows:

ARTICLE 1—FACILITIES TO BE FURNISHED BY GOVERNMENT AND LEASE THEREOF.

(a) The Government, at its own expense, shall diligently prosecute to completion a steel and concrete Aqueduct running from a connection with the Colorado River aqueduct of the Metropolitan Water District of Southern California near the west portal of San Jacinto tunnel in Riverside County, to San Vicente Reservoir, in San Diego County, which undertaken project is hereinafter referred to in its entirety as the "Aqueduct," and includes the entire structure and appurtenances thereto together with those rights in real property acquired by the Government for its construction or operation. The Aqueduct shall be constructed in accordance with the presently existing Government specifications therefor (such specifications being generally identified as Bureau of Yards and Docks Specifications numbered 16713, 16781, 17270, 16954, 17383, 16998, 16254, and likewise the specifications contained in Bureau of Supplies and Accounts Contract N5sy 3213, and also including such additional specifications as the Contracting Officer may deem desirable for the completion of the work), which specifications are by this reference made a part hereof. The Government may make such changes in such specifications as it may deem proper, provided, however, that no fundamental changes therein will be made without first consulting with the City. The estimated cost of the Aqueduct is $14,500,000 and the estimated completion date is May, 1947, but neither party guarantees such amount or date nor sponsors either of them as a material representation hereunder.

(b) Upon completion of the Aqueduct as determined by the Contracting Officer, the Government shall deliver the possession thereof to the City for use in its water system and upon the following lease basis:

(i) After the date of delivery of possession to it the City shall thereafter repair, maintain and operate such Aqueduct and shall be responsible for the safekeeping thereof regardless of the cause of loss or damage thereto and for all charges and assessments of whatsoever type or nature thereafter accruing against the same, it being intended that after the date of such delivery of possession under this lease the Government shall be without financial obligation or liability with respect to such property and that such property shall be maintained intact and free of encumbrance. The City shall hold the Government, its officers, agents and employees, harmless from any claims or liabilities arising out of the City's operations or other activities under this lease and shall not permit of the attachment of any encumbrance whatsoever to such Government property. The Government shall have access to the premises leased hereunder at all reasonable times for inspection or other proper purposes. Should the City fail in any of its undertakings under this paragraph, the Government, at its option and without prejudice to such other rights as it may have, may enter the premises and remedy such default or any part thereof and charge the actual cost thereof to the City plus 15% to cover overhead and general expense, which total amount together with interest at the rate of 4% per annum from the date of expenditure to the date of payment shall be paid to the Government

by the City on June 1 immediately succeeding the date when the Government completes or discontinues the remedying of such default or part thereof.

(ii) Title to the Aqueduct shall remain in, and title to all replacements and improvements thereto made during the life of this lease shall vest in, the Government.

(iii) The annual rental under this lease shall be $500,000. The lease period shall commence to run from the date the Government delivers possession of the Aqueduct to the City. Such annual payment shall be divided into quarterly payments of $125,000 each, the first of such payments to be made within three months of said date of delivery of the Aqueduct and the remainder quarterly thereafter.

(iv) This lease shall continue until such time as the City has paid to the Government in rentals the full amount of the true cost to the Government, as defined in Article 3, of the Aqueduct. During the term of this lease the City shall have the right and option to purchase said Aqueduct from the Government upon the terms and conditions contained in either of the following subparagraphs (1) and (2), the option in each being deemed independent of the option in the other:

(1) At intervals of five years the City may in writing request the Contracting Officer to name and fix a purchase price of said Aqueduct, and thereafter the City may purchase said Aqueduct for the price so named, and thus terminate the lease; provided that if the City is unable to pay the price so fixed out of the annual

revenues of said City for the year in which said option is exercised, then said purchase by said City must be first authorized by a vote of two-thirds of the qualified electors of said City voting at an election held for that purpose. The ratification of said purchase shall be authorized by said electors within one year following the notice by said City that it desires to exercise the option. This right or option on the part of the City to purchase said Aqueduct shall inure to the benefit of any assignee of the City under an assignment pursuant to the provisions of Article 5.

(2) Upon receipt in writing from said City the Contracting Officer shall furnish to said City in writing the true cost to the Government of said Aqueduct. Thereupon the City shall have the right and option to purchase said Aqueduct by paying to said Government said true cost of said Aqueduct, provided that the purchase has been first authorized by a vote of two-thirds of the qualified electors of said City voting at an election held for that purpose, if the City is unable to pay said price out of the annual revenue for said year. In event that said purchase is so authorized by said electors at said election the Government shall convey to said City all of its right, title and interest in and to said Aqueduct and appurtenances, upon payment to said Government of the full and true cost of said Aqueduct, minus any rentals theretofore paid by said City under the terms and provisions of this lease-contract.

(v) Notwithstanding any of the foregoing provisions, this lease shall not continue for a period of more than thirty-two (32) years from date of delivery to the City. Should this lease terminate by reason of the expiration of such period, except such termination as may be occasioned by the City exercising the option to purchase, as hereinabove provided, then the Aqueduct, together with all replacements and improvements, shall be redelivered to the Government, free of encumbrance, and in as good condition as when delivered to the City, reasonable wear and tear excepted.

ARTICLE 2—FACILITIES AND SERVICE TO BE FURNISHED BY CITY.

(a) The City, at its own expense, shall diligently prosecute to completion that water treatment plant and additions to the water transportation system and connections to the distribution system as contemplated by the City Bond Issue approved at the election held in said City on the 17th day of April, 1943.

(b) The City shall diligently pursue and the Council of said City shall forthwith take such legal steps as may be necessary and authorized by law to secure an adequate supply of water from the Metropolitan Water District of Southern California to be supplied through said Aqueduct.

(c) The City shall exert every reasonable effort to supply all Government agencies and establishments within the area with an adequate supply of fresh, clear and potable water at applicable and non-discriminatory rates, provided, however, that this agreement shall in no way estop the Government from taking appropriate action with re-

spect to any rates or service which it may deem unreasonable or otherwise improper. This stated obligation of service shall not be limited to any particular source of water.

ARTICLE 3—TRUE COST TO GOVERNMENT OF AQUEDUCT.

(a) The true cost to the Government of the Aqueduct is herein defined as the sum of (i) the cost of acquisition of all rights in real property acquired for either the construction or operation of the Aqueduct, including incidental costs such as appraisals, surveys, maps, title evidence, court costs, and the like, (ii) the cost of construction contracts utilized in the accomplishment of the Aqueduct plus the reasonable value of Government-furnished material and equipment furnished with respect thereto, and (iii) those costs incurred in the field for Government or other employees (exclusive of naval officers) and equipment in conection with the work on the Aqueduct (excluding that required in the preparation of presently existing specifications) which the Contracting Officer finds to be in excess of those costs which would have been incident to the ordinary maintenance of Government establishments in the absence of such work.

(b) It is anticipated that the City and the Contracting Officer will be able to agree upon all items of such true cost. To the extent agreement is reached, such agreement shall, in the absence of fraud, supersede for the items covered the application of the above stated definition of true cost. To the extent that agreement is not reached, the determination of whether disputed items are a part of true cost within said definition shall be deemed a question of fact within the meaning of Article 9 hereof.

ARTICLE 4—RIGHT OF REENTRY UPON DEFAULT.

Should the City, after the delivery to it of possession of the Aqueduct as hereinabove provided, default or continue in default in any of the rental payments to be made by it to the Government or in any of its other undertakings hereunder, whether included in the lease arrangement or otherwise, and remain in such default after sixty (60) days from written notice to it from the Contracting Officer to remedy such default, then the Government at its option and without prejudice to such other rights as it may have, may re-enter and take exclusive possession of such Aqueduct, with or without process of law, and free and clear of any obligation in respect thereto to the City or any one claiming through the City. Rental payments made by the City prior to the date of such reentry shall be retained by the Government and any rental payments accrued but unpaid on such date (and for this purpose rent shall be deemed to accrue pro rata from day to day) shall be forthwith paid to the Government, all such payments being deemed to be compensation for the use of the Aqueduct during the period of the City's possession.

ARTICLE 5—ASSIGNMENT.

Neither this contract, nor any interest therein, nor any claim arising thereunder, shall be transferred by the City to any party or parties without the written approval thereto of the Government; provided, however, that the Government will consent to the assignment of the City's rights and interests herein to either the Metropolitan Water District of Southern California and/or the San Diego County Water Authority, upon such terms and conditions as may then be deemed reasonable by the Con-

tracting Officer for the purpose of preserving the intent of this agreement and the protection of the Government's interest therein.

ARTICLE 6—FAILURE TO INSIST ON COMPLIANCE—REMEDIES NOT EXCLUSIVE.

Failure of the Government in any one or more instances to insist upon strict performance of any of the terms of this contract or to exercise any provided right or option herein conferred, shall not be construed as a waiver or relinquishment for the future of any such terms, options or rights. Nothing contained in this contract shall be construed as in any manner abridging, limiting, or depriving the United States of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have.

ARTICLE 7—COVENANT AGAINST CONTINGENT FEES.

The City warrants that it has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Government the right to annul the contract, or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees.

ARTICLE 8—OFFICIALS NOT TO BENEFIT.

No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE 9—DISPUTES.

Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under this contract shall be decided by the Contracting Officer, subject to written appeal by the City within 30 days to the Secretary of the Navy or his duly authorized representative, whose decision shall be final and conclusive. Pending decision, the City shall diligently proceed with performance.

ARTICLE 10—NONDISCRIMINATION IN EMPLOYMENT.

The City in performing work under this contract shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The City shall include an identical provision in all of its subcontracts. For the purposes of this article, subcontracts shall include all purchase orders and agreements to perform all or any part of the work, or to make or furnish any article required for the performance of this contract, except purchase orders or agreements for the furnishing of standard commercial articles or raw materials.

ARTICLE 11—LABOR PROVISIONS.

In the event the City accomplishes any of its undertakings hereunder by private contract, such contract or contracts shall contain appropriate provisions to assure compliance with the following acts to the extent the same are applicable:

Davis Bacon Act (U. S. C. 276a as amended);
Copeland Act (40 U. S. C. 276b and 276c); and
The Eight Hour Law (40 U. S. C. 321, 324-6, as in part modified by Section 303 of Pub. Act No. 781, 76th Congress, approved Sept. 9, 1940).

ARTICLE 12—CONTRACTING OFFICER.

The designation "Contracting Officer" means the Chief of the Bureau of Yards and Docks or any one authorized to act for him.

This negotiated contract is made pursuant to the provisions of the First War Powers Act, 1941, the Second War Powers Act, 1942, and the Act of July 2, 1940 (54 Stat. 712).

In Witness Whereof the parties hereto have executed this contract the day and year first above written.

UNITED STATES OF AMERICA,
By B. MAXWELL,
Chief of the Bureau of Yards and Docks, Navy Department

THE CITY OF SAN DIEGO,
By F. A. RHODES,
City Manager.

Witnesses:
KIRBY SMITH.
FRIEDA HEILBRUN.

I hereby approve the form and legality of the foregoing Contract, this 17 day of October, 1945.

J. F. DUPAUL,
City Attorney.

APPENDIX NO. 26

ASSIGNMENT BY SAN DIEGO TO METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

March 14, 1947

This Agreement made this 14th day of March, 1947, between the **City of San Diego,** a municipal corporation, and **The Metropolitan Water District of Southern California,** a public corporation of the State of California.

Witnesseth: That

1. **Whereas,** the City of San Diego, under date of April 15, 1926, filed an application with the Division of Water Resources, Department of Public Works of the State of California, seeking a permit to appropriate from the Colorado River 112,000 acre feet annually of the waters of said river for use in the City of San Diego, which application is now pending before the Division of Water Resources and is designated Application No. 4997; and.

2. **Whereas,** under date of August 18, 1931, the Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley County Water District, The Metropolitan Water District of Southern California, the City of Los Angeles, the City of San Diego and County of San Diego entered into an agreement fixing their respective priorities in the waters of the Colorado River available for use in California under the Colorado River Compact and the Boulder Canyon Project Act, which contract is commonly referred to as the "Seven-Party Priority Agreement"; and

3. **Whereas**, under date of February 15, 1933, the United States and San Diego entered into a water delivery contract approved by the County of San Diego, providing for the delivery by the United States to the City of San Diego of certain waters of the Colorado River in accordance with the schedule of priorities fixed in said Seven-Party Priority Agreement, said contract being for the benefit of the City of San Diego and the County of San Diego and commonly referred to as the "San Diego Water Delivery Contract"; and

4. **Whereas**, under date of October 4, 1946, a contract was entered into between the United States of America, the City of San Diego, the San Diego County Water Authority, a municipal corporation of the State of California, and The Metropolitan Water District of Southern California, providing for the merger of all the rights of the City of San Diego to the storage and delivery of Colorado River water under the "San Diego Water Delivery Contract" with the rights of The Metropolitan Water District of Southern California to the storage and delivery of Colorado River water under a water delivery contract between the United States of America and The Metropolitan Water District of Southern California, dated April 24, 1930, as amended by a Supplementary Contract dated September 28, 1931, and further providing that the diversion point of water heretofore agreed to be delivered to the City of San Diego under said water delivery contract of February 15, 1933, should be changed from a point on the Colorado River immediately above Imperial Dam to The Metropolitan Water District of Southern California's intake at a point on the Colorado River immediately above Parker Dam, said contract being contingent upon annexation of San Diego County

Water Authority to The Metropolitan Water District of Southern California prior to January 1, 1947; and

5. **Whereas,** San Diego County Water Authority, pursuant to the will of a majority of the qualified electors of said County Water Authority voting thereon at a special election held for that purpose on November 5, 1946, has become annexed to and is now a part of The Metropolitan Water District of Southern California, such annexation proceedings having been completed on the 17th day of December, 1946;

Now, Therefore, in consideration of the premises and in furtherance of the mutual covenants and agreements contained in that certain contract merging the rights of the City of San Diego and The Metropolitan Water District of Southern California, dated October 4, 1946, the City of San Diego does hereby grant and convey to The Metropolitan Water District of Southern California all of its right and interest in and to the storage and delivery of Colorado River water as evidenced by said water-delivery contract of February 15, 1933, together with all of its right and interest in and to the use of the waters of the Colorado River under any act of appropriation heretofore made, and does hereby assign and transfer to The Metropolitan Water District of Southern California any and all rights it may have acquired, or may in the future acquire, under and by virtue of that certain application to appropriate water from the Colorado River heretofore referred to and designated Application No. 4997.

In Witness Whereof, the parties hereto have executed this contract the day and year first above written.

CITY OF SAN DIEGO

By F. A. RHODES

City Manager

Attest: [Seal]
FRED W. SICK
City Clerk.

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA
By JULIAN HINDS
J. H. H.
General Manager and Chief Engineer

Attest: [Seal]
A. L. GRAM
Executive Secretary

Approved Jan. 27, 1947

COUNTY OF SAN DIEGO
By DEGRAFF AUSTIN
Chairman, Board of Supervisors

Attest: [Seal]
J. B. MCLEES,
County Clerk and ex officio Clerk
of the Board of Supervisors
By: M. NASLAND, Deputy

SAN DIEGO COUNTY WATER AUTHORITY
By J. L. BURKHOLDER
General Manager and Chief Engineer

Attest: [Seal]
ELEANOR LONGFELLOW
Executive Secretary

Approved as to form and execution
JAMES H. HOWARD
General Counsel

DMK

APPENDIX NO. 27

UNITED STATES AND SAN DIEGO: CONSTRUCTION OF A SECOND AQUEDUCT "BARREL"

April 1, 1952

This Supplemental Agreement No. 4 to Contract NOy-13300, entered into as of the 1st day of April 1952, between the **United States of America** (hereinafter called the "Government"), represented by the Chief of the Bureau of Yards and Docks, Navy Department, and **San Diego County Water Authority**, a public corporation, organized and existing under and by virture of the laws of the State of California (hereinafter called the "Authority");

Witnesseth:

Whereas, the Government and the City of San Diego on October 17, 1945 entered into Contract NOy-13300 wherein the Government undertook to construct, and the City undertook to lease, operate and maintain, an Aqueduct (hereinafter called the "Aqueduct") from a connection with the Colorado River Aqueduct of the Metropolitan Water District of Southern California, near the West Portal of the San Jacinto Tunnel in Riverside County, to San Vicente Reservoir in San Diego County; and

Whereas, by virtue of compliance with the terms and conditions of Supplemental Agreement No. 1 to Contract NOy-13300, entered into as of September 23, 1946, the Authority is the assignee in part of the City's rights and obligations under Contract NOy-13300; and

Whereas, under Supplemental Agreement No. 2 to Contract NOy-13300, entered into October 29, 1946, Contract NOy-13300 was modified to reserve title to certain transition and diversion structures in the Metropolitan Water District of Southern California (hereinafter called the "District"); and

Whereas, under Supplemental Agreement No. 3 to Contract NOy-13300, entered into as of December 11, 1947, the Authority has been in possession and use of the Aqueduct on an interim basis from January 1, 1948 to December 31, 1951, and, in consideration thereof, has paid $1,000,000 to the Government; and

Whereas, pursuant to Contract NOy-13300, the Government delivered and the Authority received possession of the Aqueduct on January 1, 1952; and

Whereas, under Public Law 171 of the 82nd Congress the Secretary of the Navy was authorized, upon amendment of Contract NOy-13300 as therein set forth, to provide for the construction of a new aqueduct (hereinafter called the "Second Barrel") paralleling the existing Aqueduct; and

Whereas, subject to the continued availability of authority and appropriations, the Government is prepared (without guaranty, warranty or any other liability on its part in connection therewith), to undertake the construction at its own expense of the Second Barrel in accordance with such plans, drawings and specifications as the Contracting Officer (after such consultation with the Authority as he shall deem appropriate) shall in his sole and exclusive discretion approve, for the purpose of providing an estimated rated capacity of not less than approximately 80 cubic feet per second, at an estimated

cost not exceeding $18,000,000. (All of the foregoing being matter of description and not of guaranty, warranty or representation on the part of the Government):

Now, Therefore, it is mutually agreed that Contract NOy-13300, as heretofore supplemented and modified by Supplemental Agreements 1, 2 and 3, be and it hereby is further supplemented and amended as follows:

1. The Government, its contractors, and their successors, assigns, officers, agents and employees, shall have the right, free of rental or similar charge and without being considered in default or violation of any of the provisions of Contract NOy-13300, to enter upon the Aqueduct for the purpose of constructing and maintaining the Second Barrel; and the Authority shall at all times cooperate with the Government, its contractors and their successors, assigns, officers, agents and employees as may be reasonably necessary and appropriate for the construction of the Second Barrel. The Authority shall also procure, and be responsible for, such cooperation of the Metropolitan Water District of Southern California as may be reasonably necessary and appropriate for the construction, maintenance and operation of the Second Barrel.

2. Upon completion of the Second Barrel, as determined by the Contracting Officer, the Government shall deliver the possession thereof to the Authority for use in its water system and upon the following lease basis:

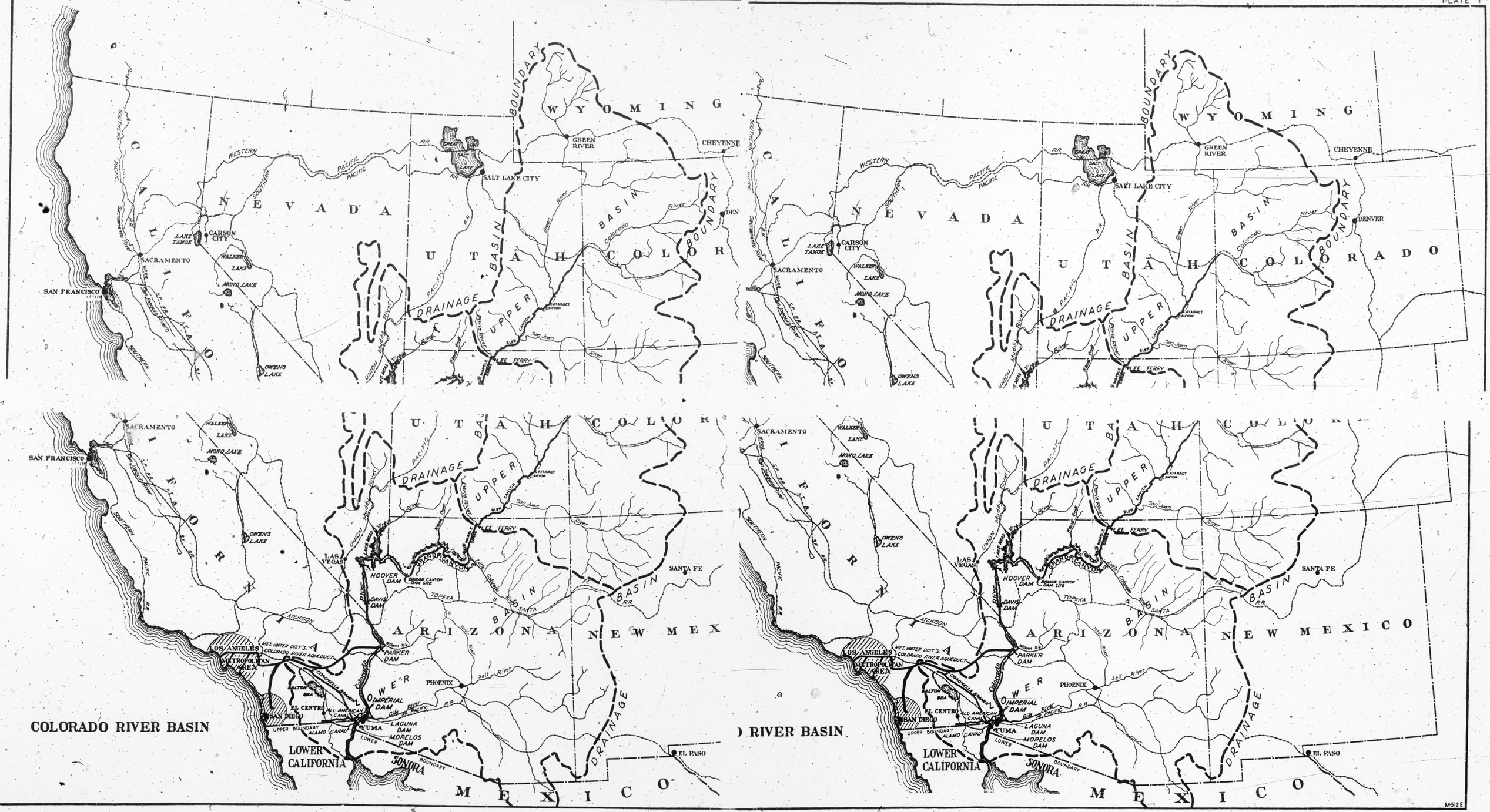
(a) The provisions of Article 1, subdivision (b), paragraphs (i), (ii) and (vi), and of Article 3, of Contract NOy-13300, as heretofore supplemented, are, with the substitution of "Second Barrel" for "Aqueduct" and "Authority" for "City" hereby incorporated herein and

made applicable to the Second Barrel; provided however, that the total cost to the Government of the Second Barrel shall include all costs incidental to the development of the plans, drawings and specifications therefor, except such costs as have been or may be advanced by the Authority pursuant to Contracts Symbol Nos. 176r-500 and 176r-701, respectively, entered into April 25, 1949 and November 9, 1951, between the Authority and the Government.

(b) At the end of the first quarter after completion and delivery of possession of the Second Barrel to the Authority, and quarterly thereafter, the Authority shall pay to the Government as rental under this lease one-one hundred and sixtieth (1/160th) part of the full amount of the true cost of the Second Barrel (as herein defined). In the event that the true cost shall not be determined at the time of the completion and delivery of possession of the Second Barrel hereunder, the parties hereto shall proceed upon the basis of true cost as estimated by the Contracting Officer, subject to adjustment of the agreed installment payments hereunder when true cost shall be finally determined. In addition, the Authority shall pay with each quarterly installment of rent a sum representing interest on the balance of such true cost remaining after deducting therefrom the amount of all rental installments theretofore paid hereunder, such interest to be computed at a rate of 2.599 per cent per annum. The rental and interest provided hereunder for the Second Barrel shall be in addition to the annual rental of $500,000.00 provided for the Aqueduct under Article I, subdivision (b), of Contract NOy-13300, which rental shall continue to be paid in accordance therewith until the remaining balance of the true cost of the Aqueduct is paid in full.

(c) Paragraph (iv) and (v) of Article I, subdivision (b) of Contract NOy-13300 as heretofore supplemented are hereby cancelled and in lieu thereof it is agreed that the lease of the Second Barrel and the lease of the Aqueduct shall continue until such time as the Authority has paid to the Government in rentals the full amount of the true cost to the Government (as defined for the Aqueduct in Contract NOy-13300 as heretofore supplemented and as defined herein for the Second Barrel) of the Aqueduct and the Second Barrel. The Authority at its option shall have the right at any time to pay in advance any portion of the true cost then unpaid, with accrued interest to date of payment, and in the event of such advance payment the installments remaining, if any, shall be reduced to provide for equal installments throughout the remaining lease period. Upon completion of payment of rentals by the Authority to the Government in amounts equal to the sum of the true cost of the Aqueduct and the true cost of the Second Barrel, and of all interest due in connection with the Second Barrel, the lease of the Aqueduct and the lease of the Second Barrel shall terminate and the Government shall convey to the Authority, or its assigns, all of its rights, title and interest in and to the Aqueduct and the Second Barrel and their appurtenances.

3. This agreement shall be of no force and effect until and unless the City of San Diego, the City of Chula Vista, the Fallbrook Public Utility District, the Lakeside Irrigation District, the La Mesa, Lemon Grove and Sweetwater Irrigation District, the City of National City, the City of Oceanside, the City of Escondido, the San Dieguito Irrigation District, and the Santa Fe Irrigation District, comprising all of the member agencies of the Authority, shall enter into the annexed collateral agree-


WYOMING
NEVADA
UTAH
COLORADO
ARIZONA
NEW MEXICO
MEXICO
CALIFORNIA
GREEN RIVER
CHEYENNE
SALT LAKE CITY
DENVER
SACRAMENTO
SAN FRANCISCO
LAKE TAHOE
CARSON CITY
WALKER LAKE
MONO LAKE
OWENS LAKE
LAS VEGAS
HOOVER DAM
BOULDER CANYON DAM SITE
DAVIS DAM
PARKER DAM
IMPERIAL DAM
LAGUNA DAM
MORELOS DAM
YUMA
PHOENIX
SANTA FE
EL PASO
LEE FERRY
CATARACT CANYON
GLEN CANYON
LOS ANGELES METROPOLITAN AREA
MET. WATER DIST'S. COLORADO RIVER AQUEDUCT
SALTON SEA
EL CENTRO
SAN DIEGO
ALL AMERICAN CANAL
COACHELLA BRANCH
ALAMO CANAL
UPPER BOUNDARY
LOWER BOUNDARY
SONORA
UNION PACIFIC R.R.
SOUTHERN PACIFIC R.R.
ATCHISON, TOPEKA & SANTA FE R.R.
GREAT SALT LAKE
Colorado River
Green River
San Juan River
Virgin River
Gila River
Salt River
Williams River
Little Colorado River
Paria River
Muddy River
Las Vegas Wash
Sacramento River
San Joaquin River
UPPER BASIN
LOWER BASIN
DRAINAGE BASIN BOUNDARY
COLORADO RIVER BASIN

M512E

PLATE 2

CALIFORNIA DEVELOPMENTS ON COLORADO RIVER

OWENS LAKE
OWENS RIVER AQUEDUCT
PANAMINT VALLEY
DEATH VALLEY
NEVADA CALIFORNIA
ARIZONA NEVADA
GRAND WASH
LAS VEGAS
LAKE MEAD
HOOVER DAM
BRIDGE CANYON DAMSITE
RED LAKE
PEACH SPRINGS
IVANPAH VALLEY
LAKE MOJAVE
PIUTE
MOHAVE VALLEY
DAVIS DAM
KINGMAN
BAKERSFIELD
MOJAVE
POWER LINES
SODA LAKE
BARSTOW
DAGGETT
MOJAVE DESERT
BOULDER
LUDLOW
GOFFS
NEEDLES
TOPOCK
CHEMEHUEVIS VALLEY
HUALPAI MTS
VICTORVILLE
LUCERNE VALLEY
CADIZ
LAKE HAVASU
CALIFORNIA ARIZONA
HEAD GATE ROCK DAM
WILLIAMS RIVER
PARKER DAM
PARKER
RICE
VENTURA
BURBANK
GLENDALE
PASADENA
BEVERLY HILLS
LOS ANGELES
SAN MARINO
SAN BERNARDINO
COLTON
SANTA MONICA
COMPTON
FULLERTON
RIVERSIDE
BEAUMONT
TORRANCE
ANAHEIM
LONG BEACH
LAKE MATHEWS
PERRIS
SANTA ANA
ELSINORE LAKE
LAGUNA BEACH
COLORADO RIVER AQUEDUCT
PINTO BASIN
COACHELLA VALLEY COUNTY WATER DISTRICT
COACHELLA VALLEY
INDIO
SALTON SEA
CHUCKWALLA VALLEY
BLYTHE
WEIR
PALO VERDE IRRIGATION DISTRICT
COLORADO RIVER
COACHELLA BRANCH
IMPERIAL VALLEY IRRIGATION DISTRICT
IMPERIAL
EL CENTRO
ALL AMERICAN CANAL
PILOT KNOB
BARD IRRIGATION DIST.
IMPERIAL DAM
LAGUNA DAM
YUMA PROJECT (CALIF.)
GILA RIVER
YUMA
SIPHON DROP
MORELOS DAM
ALAMO CANAL
SERVICE AREA OF COLORADO RIVER AQUEDUCT
SAN DIEGO
PACIFIC OCEAN
CALIFORNIA
MEXICO
LOWER CALIFORNIA
ARIZONA
MEXICO

SCALE IN MILES
0 5 10 25 50

PALO VERDE VALLEY

RIVERSIDE & IMPERIAL COUNTIES CALIFORNIA

PALO VERDE IRRIGATION DISTRICT

MAP SHOWING

DISTRICT IRRIGATION SYSTEM AND PROPOSED ADJACENT DEVELOPMENT

APRIL 1, 1953

SAN BERNARDINO BASE LINE AND MERIDIAN

SCALE OF MILES 0 1 2 3 4

- DISTRICT BOUNDARY
- LEVEES
- DRAINAGE CANALS
- IRRIGATION CANALS
- PROPOSED MAIN CANALS AS DESIGNED ON MESA
- PROPOSED PUMPING PLANT FOR MESA
- SURFACE DRAINS

PLATE 3

water now flowing in said river, all of which is now subject to appropriation in Arizona; to withhold all of said water from appropriation and to prohibit the appropriation thereof; to withhold all of said water from use in Arizona, or, if he permits any such use, to require payment of such charges therefor as he may prescribe; and to sell and dispose of any part or all of said water for use in other States, even to the extent of selling and delivering it for use outside of the drainage basin of the Colorado River; all of which is to be done without the consent of the State of Arizona and in violation of its laws. Thereby said act attempts to deprive the State of Arizona, its citizens, inhabitants and property owners, of their right to appropriate said 8,000,000 acre-feet of unappropriated water, and of their right to use any of said water in Arizona, except by contract with the Secretary of the Interior and upon payment of such charges as he may prescribe.

* * * * * * * * *

XXXII

Pursuant to and under color of said act and of said regulations, said defendant Ray Lyman Wilbur has made a pretended contract with the Metropolitan Water District of Southern California, a municipal corporation of the State of California, for the storage of water in said reservoir and for the diversion, sale and delivery of said water to said District for transportation to and consumptive use in said District. A copy of said pretended contract is appended hereto at page 79. Said District consists of the City of Los Angeles and the municipalities of Anaheim, Beverly Hills, Burbank, Colton, Glendale, Pasadena, San Bernardino, San Marino, Santa Ana and Santa Monica, which are municipal corporations of the

State of California. Said District is situated on the Pacific Coast approximately 300 miles distant from the Colorado River and outside of its drainage basin. No public land of the United States is contained within the limits of said District. Said pretended contract is for permanent service, and provides for the delivery to said District of 1,050,000 acre-feet of said stored water annually, and for the payment by said District of 25 cents per acre-foot for water so delivered. Said 1,050,000 acre-feet of water, if sold and delivered to said District, as in said pretended contract provided, cannot, nor can any part thereof, be used for the reclamation of public land of the United States. Said water is a part of the 8,000,000 acre-feet of unappropriated water now flowing in the Colorado River, all of which is now subject to appropriation in Arizona. Said 1,050,000 acre-feet of water, together with the 6,500,000 acre-feet of water heretofore appropriated and now being used in said Lower Basin, will exceed the full amount of 7,500,000 acre-feet of water which said compact attempts to apportion to said Lower Basin. The delivery of said 1,050,000 acre-feet of water to said District, as in said pretended contract provided, would exhaust said apportionment, and, by the terms of said compact and of said Boulder Canyon Project Act, no water would then be available for or subject to appropriation in said Lower Basin, although there would still remain in said Colorado River System 7,950,000 acre-feet of unappropriated water per year. Thus the effect of carrying out the provisions of the Boulder Canyon Project Act and of said pretended contract would be to deprive the State of Arizona, its citizens, inhabitants and property owners, of their right to appropriate any of the unappropriated water of said Colorado River System, aggregating,

as aforesaid, 9,000,000 acre-feet annually, all of which is now subject to appropriation in Arizona.

XXXIII

Pursuant to and under color of said act, said defendant Ray Lyman Wilbur has made and prescribed general regulations for the lease of electric power to be generated at said dam. A copy of said regulations is appended hereto at page 89. Pursuant to and under color of said act and of said regulations, said defendant has made a pretended contract with said City of Los Angeles and Southern California Edison Company, Limited, a corporation of the State of California, for the lease of power privileges at said dam, and a pretended contract with said Metropolitan Water District of Southern California for the sale of electric power to be generated at said dam. Said pretended contract for the lease of power privileges provides for the leasing of certain generating machinery to be installed by said defendant, part to said City and part to said Company; for the generation by said lessees of all electric power allotted by said defendant; for the delivery to said lessees of falling water from said reservoir sufficient to generate all power so sold; for the sale to said lessees, respectively, of amounts of electric power specified therein; and for the payment by said lessees of the cost of said machinery, and certain further sums on account of electric power to be taken by said lessees. Said pretended contract is for a period of 50 years. The pretended contract with said District in this paragraph referred to provides for the sale to said District of specified amounts of electric power annually for a period of 50 years. Said power is to be used for the sole purpose of pumping into and in a proposed aqueduct, to be

constructed by said District, the 1,050,000 acre-feet of water to be sold and delivered to said District, as provided in the pretended contract referred to in the last preceding paragraph hereof. The three pretended contracts hereinabove referred to are made upon the express condition that all rights thereunder shall be subject to and controlled by the Colorado River Compact. For the reasons heretofore stated, all of said pretended contracts are void and of no effect. Nevertheless, said defendant, unless enjoined therefrom, will carry out all the provisions of said pertended contracts.

* * * * * * * * *

FROM THE ARIZONA BRIEF:

The Wilbur brief on pages 9 and 19 totally misconceives and misstates the meaning and effect of the Compact, as is shown by pages 40 and 41 of the Colorado brief. The apportionment of beneficial use of water to the two basins made in Article III of the Compact is not, as the Wilbur brief appears to believe, restricted to uses from the main stream of the Colorado River, but includes, as the Compact specifically states and as the Colorado brief affirms, uses from the whole "Colorado River System" which by definition includes its tributaries. The apportionment to the Lower Basin from the whole river system is by Article III (a) the beneficial consumptive use in perpetuity of 7,500,000 acre-feet of water, which includes all water necessary for the supply of all rights which exist in the Lower Basin upon the whole river system.

The provision in paragraph (d) of Article III that the Upper Basin States will not cause the flow of the river to be depleted below 75,000,000 acre-feet over ten year periods, has, as the Colorado brief, page 41, correctly

as aforesaid, 9,000,000 acre-feet annually, all of which is now subject to appropriation in Arizona.

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constructed by said District, the 1,050,000 acre-feet of water to be sold and delivered to said District, as provided in the pretended contract referred to in the last preceding paragraph hereof. The three pretended contracts hereinabove referred to are made upon the express condition that all rights thereunder shall be subject to and controlled by the Colorado River Compact. For the reasons heretofore stated, all of said pretended contracts are void and of no effect. Nevertheless, said defendant, unless enjoined therefrom, will carry out all the provisions of said pertended contracts.

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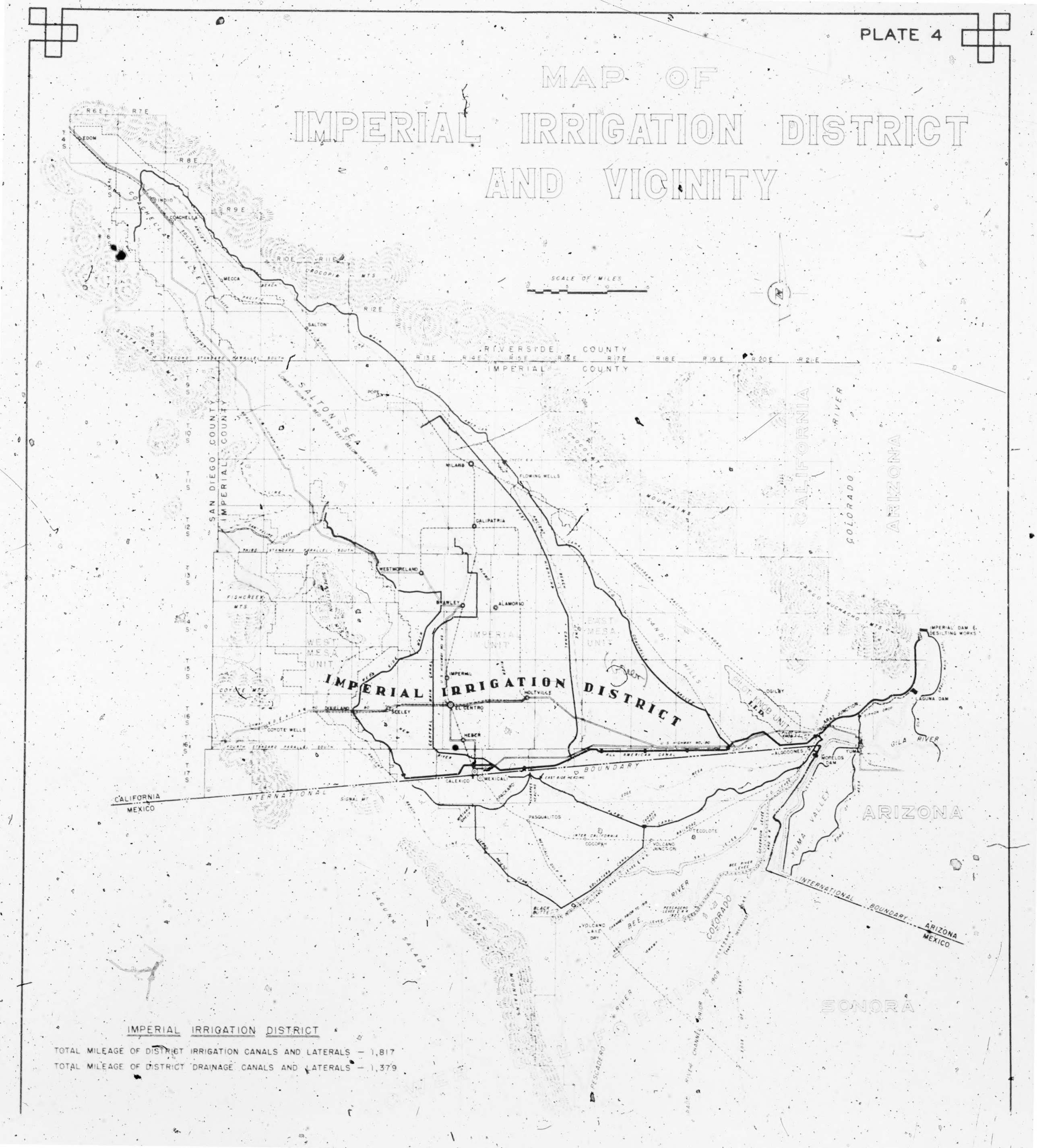
The provision in paragraph (d) of Article III that the Upper Basin States will not cause the flow of the river to be depleted below 75,000,000 acre-feet over ten year periods, has, as the Colorado brief, page 41, correctly

PLATE 4

MAP OF IMPERIAL IRRIGATION DISTRICT AND VICINITY


R6E
R7E
R8E
R9E
R10E
R11E
R12E
R13E
R14E
R15E
R16E
R17E
R18E
R19E
R20E
R21E
T4S
T5S
T6S
T7S
T8S
T9S
T10S
T11S
T12S
T13S
T14S
T15S
T16S
T17S
SCALE OF MILES
RIVERSIDE COUNTY
IMPERIAL COUNTY
SAN DIEGO COUNTY
IMPERIAL COUNTY
CALIFORNIA
ARIZONA
SONORA
COLORADO RIVER
SALTON SEA
EDOM
INDIO
COACHELLA
COACHELLA VALLEY
MECCA
DATE PALM BEACH
SALTON
CROCOPIA MTS
SANTA ROSA MTS
FRESNO STANDARD
KINGSBURG SOUTH
THIRD STANDARD PARALLEL SOUTH
FOURTH STANDARD PARALLEL SOUTH
POPE
NILAND
FLOWING WELLS
CALIPATRIA
WESTMORELAND
BRAWLEY
ALAMORIO
IMPERIAL
HOLTVILLE
EL CENTRO
HEBER
DAIRYLAND
SCELEY
COYOTE WELLS
CALEXICO
MEXICALI
EAST SIDE MESA
WEST MESA UNIT
IMPERIAL UNIT
EAST MESA UNIT
FISHCREEK MTS
COYOTE MTS
SIGNAL MT
PASQUALITOS
INTER CALIFORNIA
COCOPAH
VOLCANO JUNCTION
TECOLOTE
BLACK BUTTE
VOLCANO LAKE DRY
LAGUNA SALADA
COCOPAH MOUNTAINS
CHOCOLATE MOUNTAINS
CARGO MUCHACHO MTS
IMPERIAL IRRIGATION DISTRICT
IMPERIAL DAM & DESILTING WORKS
LAGUNA DAM
OGILBY
ALGODONES
MORELOS DAM
YUMA
GILA RIVER
EAST JUNCTION
SIPHON DROP
PILOT KNOB UNIT
PILOT KNOB
YUMA VALLEY
INTERNATIONAL BOUNDARY
CALIFORNIA
MEXICO
ARIZONA
MEXICO
BEE RIVER LEVEE
PESCADERO LEVEE
PESCADERO RIVER
BAJA
RIVER CHANNEL PRIOR TO 1909
U.S. HIGHWAY NO. 80
ALL AMERICAN CANAL
EAST SIDE MESA
SAN DIEGO CANAL
WESTSIDE MAIN CANAL
EAST HIGHLINE CANAL
WEST HIGHLINE CANAL
SOUTHERN PACIFIC RAILROAD
SOUTHERN PACIFIC LINES
SAN DIEGO CANAL
COACHELLA BRANCH
CENTRAL MAIN CANAL
U.S. HIGHWAY NO. 80

IMPERIAL IRRIGATION DISTRICT

TOTAL MILEAGE OF DISTRICT IRRIGATION CANALS AND LATERALS -- 1,817

TOTAL MILEAGE OF DISTRICT DRAINAGE CANALS AND LATERALS -- 1,379

SCALE OF MILES

0 5 10 15

R10E R11E R12E R13E R14E R15E R16E R17E R18E R19E R20E R21E

T8S T9S T10S T11S T12S T13S T14S T15S T16S T17S

RIVERSIDE COUNTY

IMPERIAL COUNTY

SAN DIEGO COUNTY

IMPERIAL IRRIGATION DISTRICT

MECCA BEACH

SALTON

SALTON SEA

LOWEST POINT IN BED 275 FEET BELOW SEA LEVEL

POPE

MILAND

FLOWING WELLS

CALIPATRIA

WESTMORELAND

BRAWLEY

ALAMORIO

IMPERIAL

HOLTVILLE

EL CENTRO

HEBER

SEELEY

DIXIELAND

COYOTE WELLS

CALEXICO

MEXICALI

PASQUALITOS

COCOPAH

VOLCANO JUNCTION

TECOLOTE

OGILBY

ALGODONES

YUMA

MORELOS DAM

LAGUNA DAM

IMPERIAL DAM & DESILTING WORKS

GILA RIVER

YUMA VALLEY

EAST MESA UNIT

WEST MESA UNIT

PILOT KNOB UNIT

I.I.D.

SAND HILLS

CARGO MUCHACHO MTS

CHOCOLATE MOUNTAINS

SANTA ROSA MTS

FISHCREEK MTS

COYOTE MTS

SUPERSTITION MTS

SIGNAL MT

LAGUNA SALADA

PESCADERO MOUNTAINS

MONTAGUE ISLAND

VOLCANO LAKE DRY

BLACK BUTTE

ALL AMERICAN CANAL

EAST SIDE READING

SOUTHERN PACIFIC RAILROAD

U.S. HIGHWAY NO 80

U.S. HIGHWAY NO 99

SECOND STANDARD PARALLEL SOUTH

THIRD STANDARD PARALLEL SOUTH

FOURTH STANDARD PARALLEL SOUTH

SAN FELIPE CREEK

COLORADO RIVER

BEE RIVER

PESCADERO RIVER

COLORADO RIVER CHANNEL PRIOR TO 1905

CALIFORNIA

ARIZONA

MEXICO

SONORA

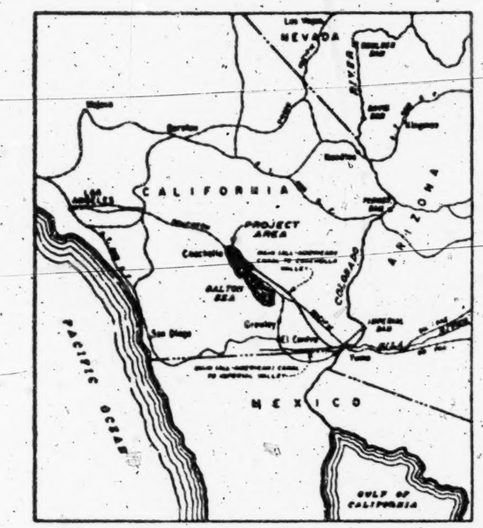
LOWER CALIFORNIA

INTERNATIONAL BOUNDARY

GULF OF CALIFORNIA

G. REED - 1952

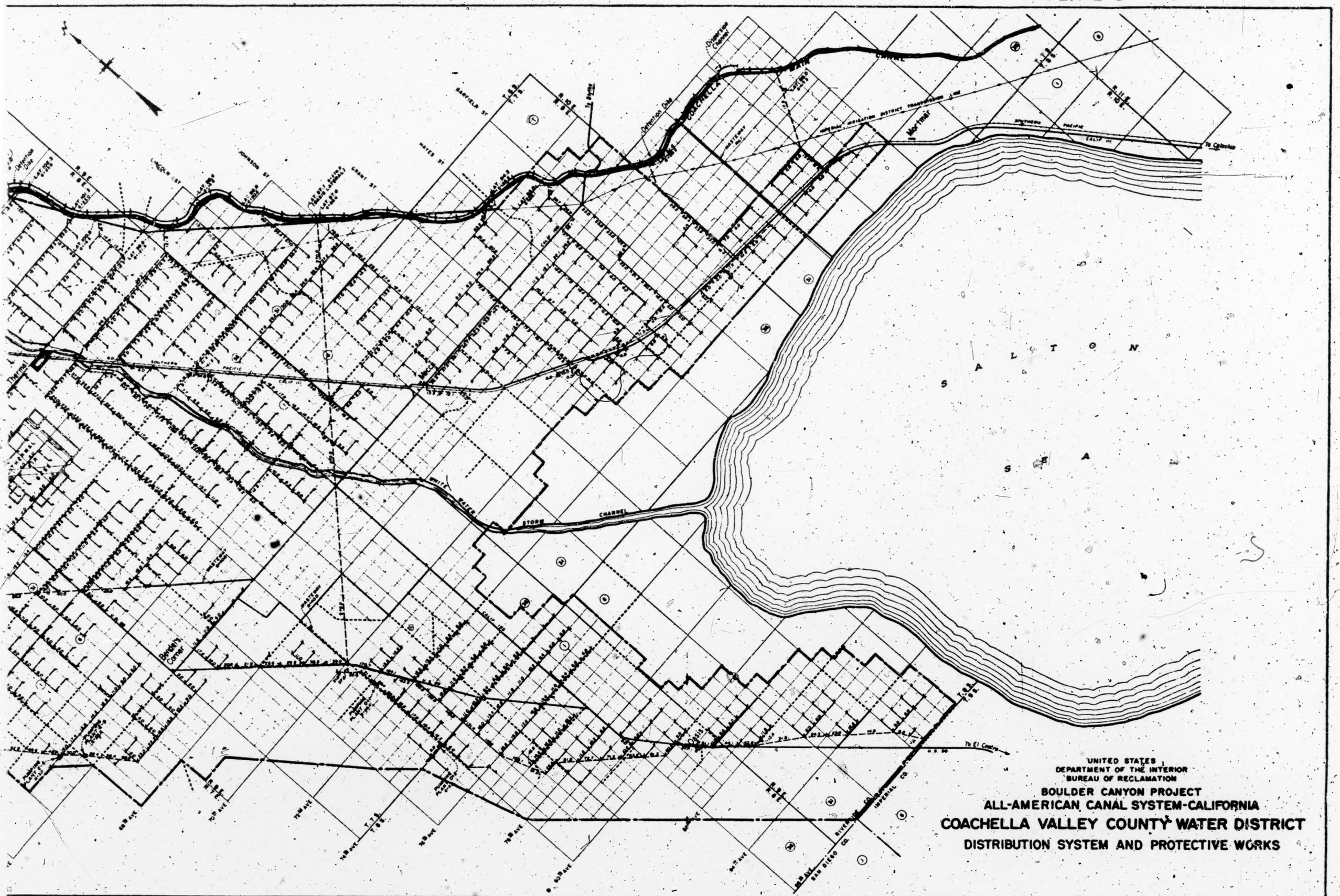
I.I.D. DWG NO. 7237


NEVADA
CALIFORNIA
ARIZONA
PROJECT AREA
SALTON SEA
MEXICO
PACIFIC OCEAN
GULF OF CALIFORNIA

KEY MAP

COACHELLA CANAL
MAIN
INDIO
COACHELLA
Thermal
Mecca
Detention Dam
Detention Channel
To Bypass
Disposal Channel
WASHINGTON ST
JEFFERSON ST
MADISON ST
VAN BUREN ST
JACKSON ST
HARRISON ST
TYLER ST
POLK ST
FILLMORE ST
PIERCE ST
BUCHANAN ST
48TH AVE
50TH AVE
52ND AVE
54TH AVE
60TH AVE
62ND AVE
64TH AVE
T.6S
T.7S
R.8E
R.9E

PLATE 5



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

BOULDER CANYON PROJECT

ALL-AMERICAN CANAL SYSTEM-CALIFORNIA

COACHELLA VALLEY COUNTY WATER DISTRICT

DISTRIBUTION SYSTEM AND PROTECTIVE WORKS

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

COLORADO RIVER AQUEDUCT
DISTRIBUTION SYSTEM
SHOWING CONSTITUENT AREAS
(EXCEPT SAN DIEGO COUNTY WATER AUTHORITY)

ROBERT B. DIEMER
GENERAL MANAGER AND CHIEF ENGINEER

LEGEND

- AREA OF DISTRICT - 1953
- PROSPECTIVE ANNEXATION AREAS
- EXISTING AQUEDUCT SYSTEM
- UNDER CONSTRUCTION
- PROPOSED FUTURE CONSTRUCTION

SCALE IN FEET

SCALE IN MILES

POLYCONIC PROJECTION NORTH AMERICAN DATUM 1927

L-600-1

PLATE 6B

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

SHOWING CONSTITUENT AREAS
IN
SAN DIEGO COUNTY

FEBRUARY 1940

ROBERT B. DIEMER
GENERAL MANAGER AND CHIEF ENGINEER

LEGEND

A

RIVERSIDE COUNTY

SAN DIEGO COUNTY

OCEANSIDE

SAN DIEGO

M E X I C O